ROYAL HISTORICAL SOCIETY

63 Periodicals
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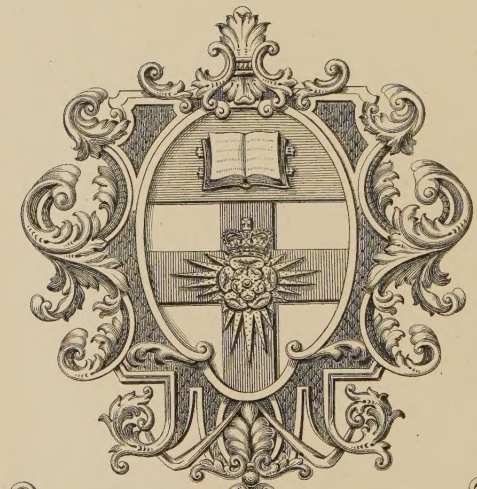

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TRANSACTIONS

OF THE

ROYAL HISTORICAL SOCIETY

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TRANSACTIONS

OF THE

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TRANSACTIONS
OF THE
ROYAL HISTORICAL SOCIETY

PRESIDENTIAL ADDRESS

By Professor T. F. Tout, D.Litt., LL.D., F.B.A.

Delivered 11 *February*, 1926

I must first of all thank the Royal Historical Society for conferring on me the distinguished honour of its Presidency. I am proud to be thus closely associated with its work. Yet I am very conscious that my past discharge of the duties of membership gives me but a modest claim on its suffrages. It is true that I have been a member of the Society since 1891. I vividly remember how at that time I fell, a coy, but not an unwilling, victim to the blandishments of Mr. Oscar Browning, who used to the full the opportunities of a mountain holiday in the Engadine to preach the sound doctrine that no self-respecting historian could discharge the whole duty of his station unless he enlisted under the Society's banner. Between 1894 and 1901 I acted as a member of the Council, until, doubtless for the sufficient reason of non-attendance, I was relegated to the position of an ordinary member. In 1915 the Society was good enough to raise me to the dignity of an Honorary Vice-President, an office the more welcome to a member then dwelling in what are sometimes quaintly called the "provinces," since it involved neither the obligation nor the privilege of attending meetings. All that I can claim to have done in return for these favours was the contribution in 1894 to the *Transactions* of a paper on the "Earldoms

under Edward I," and an edition in 1906 of the "State Trials of Edward I" to the Camden Series. This latter tarried much longer than it ought in preparation and if it appeared as early as it did, the reason is to be found in my good fortune in finding a colleague in the work in a distinguished pupil whom the University of London soon claimed for its own.

I must not, however, suggest to you that my first Presidential address is to be largely autobiographical in character. If it were, I might perhaps plead in excuse that, at the time of my election to this Chair, I have attained a greater age than any of my predecessors since the two valiant Nestors who presided over the infant struggles of this Society, George Grote and the first Earl Russell. He who has reached the allotted span of three score years and ten has some excuse for reminiscence and garrulity. But I have no intention of making the *Transactions* of this Society the dumping-ground of the first series of the memoirs of an elderly historian. I will, however, to-night, allow myself the relaxation of deserting the Middle Ages for once. I will join the majority which, in these recent days, attacks the long-neglected problems of quite modern periods.

When first installed in this Chair, I felt it my duty to look into the history of the Royal Historical Society. I should have been false to the principles of a lifetime if I had not pursued these investigations in the original sources, and particularly in the record sources, the Minute Books and other Archives of the Society. Fortunately there has never been the danger of an historical society imposing on the would-be researcher any limitations of time, after which records are inaccessible. After the War there has been a tendency to throw open recent archives all over Europe. Even our own government departments are gradually relaxing their ancient tradition of secretiveness. It is, therefore, quite in accordance with the spirit of the age that I have studied the sources of a history which goes back only to 1868 and have endeavoured to follow them up to the present

day. I have not always found the Society's archives as complete or as well preserved as are the archives of our nation. But I have found my study of them interesting and attractive, and in the hope that I may hand on some of the pleasure which I have myself derived from it, I have ventured to choose as my subject the history of the Royal Historical Society.

This history is, like most of human history, by no means a record of unbroken prosperity and progress. Apart from the necessary tale of slow beginnings, there were one or two periods of storm and stress, which friends of the Society might well be content to pass over lightly. It would, however, be an affectation to bury this phase of our history in silence. The greatest of our periods of trouble was the time when our affairs received the maximum of publicity in the contemporary Press, and at least two versions of our proceedings are there written out at large for all to read. Happily the Society soon recovered from this time of controversy and threatened disruption. That it survived at all is perhaps a convincing proof that it met a felt want. I do not think, therefore, that loyalty to our Society need compel its historian to ignore the seamy side of its history. If a picture of the Society is to be attempted at all, let it be painted as Cromwell is said to have desired that his portrait should be painted, truly like him, " remarking all these roughnesses, pimples, warts and everything." Did we neglect this, we should be false to the first duty of the historian. We should not be writing true history.

The Royal Historical Society came into being on 23 November, 1868, when six men gathered together at Somerset Buildings in the Strand under the presidency of Dr. Charles Rogers. Dr. Rogers was a Scottish divine, a writer on history and genealogy, whose life takes up the best part of two pages of the *Dictionary of National Biography*. His most dominant characteristic was a passion, often indulged in, for founding Literary Societies. On this gentleman's initiative a constitution and laws for " the Royal Historical

Society of Great Britain" were drawn up. Its object was defined as the "conducting of Historical, Biographical and Ethnographical Investigations." A tentative list of officers was written out. The Archbishop of York, William Thomson, was designated as President, and there were nominated as Vice-Presidents and Committees many "noblemen and gentlemen of eminence," among whom were "Thomas Carlyle, Esq., George Grote, Esq., and J. A. Froude, Esquire." The Rev. Dr. Rogers was appointed Historiographer and L. C. Alexander, Esq., Secretary. The latter gentleman was appointed *ad vitam aut culpam* with a salary of £100 a year and a percentage of 10 per cent. of the Society's receipts from all sources. Unluckily for the Secretary, the gross amount of these was reduced by the fact that all members, enrolled up to date, were admitted at a rate of subscription much more modest than that imposed on their successors. Unluckily for the Society, the consent of most of these "noblemen and gentlemen of eminence" to hold office does not seem to have been previously asked. Accordingly, when the Society held its second meeting on 8 February, 1869, it was found that many of them (including, I suspect, Thomas Carlyle, Esquire) had not answered the letters addressed to them, and that many of the answers received were couched in the vague formula of "approving of the objects of the Society." Archbishop Thomson was among this list, but as no more is heard of him as President, it may be inferred that the great logician had refused the dignity. However that may be, when more than twenty years later the Society was incorporated, the letters patent put the Archbishop first among the founders. With him were mentioned Earl Russell, Dean Stanley, Sir John Lubbock, Sir John Baring, Sir Roundell Palmer and George Grote. The archives of the Society afford evidence that these names at least were not taken in vain. But the work was done by much humbler folk.

For the first year of its life the infant Society got on well enough without a head, holding various meetings, and

listening to several papers. The first substantial progress was made at the " Annual General Meeting " on 6 January, 1870, at which five persons were present with Dr. Rogers in the chair. Some troubles seem already to have arisen, for the Society had to cancel the proceedings of an earlier meeting, of which the minutes give no record, and the Secretary, after making a " munificent donation," regretted that his engagements prevented his continuance in office, whereupon he was " thanked for his founding the Society." A new treasurer had also to be found and a noble list of officers drawn up. George Grote was to be offered the Presidency, and in the event of his declining, Earl Russell and Froude, both Vice-Presidents, were to be second and third strings. An honorary secretary succeeded the paid secretary. The continuity of office was secured by Dr. Rogers remaining historiographer. The growing strength of the Society was shown by a membership of sixty, including honorary and corresponding members, and by the substantial acceptance of office of all those designated. It was resolved that, " if funds permitted," a volume of *Transactions* should be issued and that permission should be asked that the word " Royal," which in the first draft had been assumed without authority, should be " prefixed to the Society."

Both these resolutions materialised. The first volume of *Transactions* appeared before the end of 1870, but Mr. H. A. Bruce, then Home Secretary, threw cold water on the application to be called a Royal Society. It would be better, he said, to defer laying the petition before the Queen, until the Society had " established its claim by published works and actual performance." Mr. Grote in transmitting to the Society the Home Secretary's letter, described it as " very courteous and in my judgment not unreasonable." This eminently judicious letter is the only recorded evidence of the first President playing any part in the proceedings of the Society. He was already 76 at the time of his election and his health was failing. He died in 1871, having done the

infant Society the inestimable benefit of associating it with the name of a great historian.

The rebuff from the Home Secretary stirred up the Society to greater activity. It resolved to invite "persons of literary mark and position to become members" and the indefatigable historiographer despatched circular letters to four hundred such persons. Few of these accepted his invitation, though several "eminent persons" made suggestions, largely, it would seem, to the effect that the subscription was too high for the benefits conferred. At once the subscription was cut down to a guinea, a reduction which "proved efficacious." No less than twenty-seven gentlemen now consented to be enrolled, among them being A. W. Ward, Esq., and H. C. Maxwell Lyte, Esq., though in each of these cases membership was not continuous. A record attendance of eight graced the annual general meeting of 1870, and the "noblemen and gentlemen" designated for honour all agreed to accept office.

In July, 1871, Earl Russell, already a Vice-President, accepted the succession to Grote. He was two years Grote's senior, and on the verge of eighty, but he remained in office until his death in 1878. His distinguished family and his high political career were his chief claims to recognition, but he had a double right to be considered an historian because of his store of constitutional knowledge and his early contributions to the history of the Whig party. He was the first President who delivered a presidential address. Of it it will be enough to repeat the dictum of one of his successors that it was characterised by the same courage and self-confidence which, according to Sidney Smith, made him equal to undertaking a surgical operation, the building of a cathedral or the command of the Channel fleet at a moment's notice and with perfect assurance of his competence for the job. It can still be read in the first volume of the Society's *Transactions*. If not conspicuous for coherence or profundity, it is admirably brief.

No less than twenty-one members of the Society attended

the " noble President's " inaugural discourse besides " many strangers," including a duke and duchess and several lords and ladies.

I cannot find that Lord Russell ever attended any other meeting, but his numerous apologies for absence are duly set forth in the minutes. Under him the Society made steady progress in numbers, and the coveted title of " Royal Society " was successfully conceded through the same Home Secretary who had thought the previous application premature. Ninety-seven ordinary members elected in a single evening raised the membership to 270. " This extraordinary accession," writes Dr. Rogers, " is to be ascribed to three causes : the recognition of the Society as Royal by Her Majesty the Queen, the popularity of the new President, and a general satisfaction with the first volume of the Society's *Transactions*." There were limits, however, to this general satisfaction, for when a second volume appeared in 1873 the pious hope was expressed that " as the Society makes progress, the character of its proceedings will doubtless prove more recondite." A practical recognition of the historiographer, now also honorary secretary, was given by his appointment *ad vitam aut culpam*, as historiographer and editor of the Society's publications at a salary of £120 per annum, paid quarterly. For the next eight years or so this stipend gradually grew. It would be tedious to trace the steps by which this process was effected. The result was that in one year he received in salary and disbursements something like £50 more than the total receipts of the Society for this period, though it is fair to add part of this was for back payment. The Society also honoured its treasurer, though in a less onerous manner to itself. On the recommendation of the Royal Historical Society and the Grampian Club, another of Dr. Rogers' bantlings, the Presbyterian College of Greenville in the United States conferred upon him the Degree of Doctor of Laws. I can find no record of the status of this learned body and have no information as to the conditions which it exacted for its degrees.

We must not be too severe on the amateurish character of the infant Society. There was as yet hardly a class of professional historians in the country. But every effort seems to have been made to attach eminent names to the list of honorary members, and that with a reasonable degree of success. I cannot, however, find that the distinction sought for was altogether historical, or that the more eminent persons roped in to the Council or membership of the Society often put in an appearance at meetings or made any contribution to the *Transactions* of the Society. Though the numbers present at meetings of the Society had now become considerable, the ordinary Council meetings were often only attended by from three to six persons, and those within reasonable limits were always the same. No doubt the homelessness of the Society stood in the way of its success. After numerous wanderings in the first six years of its existence, it settled down in 1874 in the Medical Society's Rooms in Chandos Street, Cavendish Square, though after 1877 it had to find quarters for its increasing collection of books at Dr. Williams' Library in West Grafton Street.

One result of the migration to Chandos Street was that the secretary of the Medical Society, Dr. Benjamin Richardson, took a great interest in the Society and became until 1878 the President of its Council, taking the chair for two years in that capacity at the meetings of the Society. Nor was this the only famous non-historical name that graced its proceedings. The veteran artist, George Cruikshank, was, almost to his death, a regular attendant at its Council.

In 1878 the Secretary passed in review the first ten years of the Society's history and his interesting report was printed in the *Transactions*. The death of Earl Russell in this year, followed by the retirement of Dr. Richardson from the Chairmanship of the Council, marked a new departure in the history of the Society. A new President was at once found in Lord Aberdare, who, when Mr. H. A. Bruce, had procured the royal permission to describe the Society as a Royal Society. Lord Aberdare had abandoned party

politics for good, but had still many years before him to be profitably devoted to various social, economic and educational activities. His Presidentship, ranging from 1878 to 1891, holds the record for length of tenure of the office, and it was well for the Society that his tact, *bonhomie* and grasp of principle were available to steer it through the most troublous period of its history. Lord Aberdare was not of course a professional student of history, nor had he written so much history as his predecessor had done. But just as you may write books about history with little knowledge of the subject, so you may know a great deal about history without writing much about it. Aberdare had a passion for history, especially military history, and to this extent had a personal claim to office. Moreover, as the son-in-law and biographer of Sir William Napier, the historian of the Peninsular War, he had a quasi-hereditary title to be considered as a military historian. His greatest claim to the Society's gratitude is that he was the first President to take his office seriously. In November, 1878, he delivered his first presidential address, and, whether present or absent, kept henceforth a vigilant and necessary watch over our proceedings. Numbers were increasing and among the new members the name of H. E. Malden may be specially noted. It was agreed that to increase the interest in the Society's proceedings, the discussions of the principal papers should be noted by a shorthand writer and printed in the *Transactions*.

Amidst apparent prosperity signs arose that all was not well. Within a few months there were special meetings of Council at the President's request. Later, the President sent to the Society "suggestions as to improved administration." An opposition to the Secretary was now forming, but its methods were so energetic that there was a natural rebound in the Council in his favour. One member of the Council withdrew from the Society because of the time wasted on "fruitless personal discussions." He agreed that the Secretary had not kept systematic and orderly minutes and accounts. "But he is," says he ingenuously, "essenti-

ally a literary man and literary men are seldom perfect accountants or good men of business." But the attacks still continued. Beaten in the Council, the opposition had recourse to the Press. A bombshell exploded outside the Society when an article in the *Athenæum* called attention to the Society's finances and asserted that it was deeply in debt. The information on which the paper acted came from a member of the Council, and its publication was deeply resented as a breach of confidence. Dr. Rogers began an action against the publisher of the *Athenæum*, and the Council, despite the contrary advice of the President and Chairman, refused to allow the defendant's solicitors access to its minute books. The minority proposed and lost resolutions for reducing the payments to Dr. Rogers, which, it was said, were admitted to be far exceeding the rate of just remuneration for services currently rendered. After a stormy session, the retiring Council agreed to recommend to the Annual General Meeting a list of new Councillors from which the leaders of the opposition were carefully excluded. A vigorous forward programme was issued, including the long postponed preaching of history to the public by a series of lectures on " the Science of General History," and the encouragement by prizes of attendances at these courses. The lectures in London were to be followed by similar courses " in the principal towns."

The Annual General Meeting of 1880 took place on 18 November with Lord Aberdare in the chair. The members at large revolted from the lead of the old Council, appointed a Committee of Enquiry into the affairs of the Society and took care that the new Council should include the two leaders of the opposition. The doctor now felt his position so weakened that he offered to " abate his salary " from £420 to £300, and, a week later, announced that he intended to resign at the end of six months, " though I hold a life appointment." The Council, while accepting the reduction of salary, urged on him to reconsider his proposed resignation. Meanwhile, however, the Committee of Enquiry got to

work. Its progress was facilitated through Dr. Rogers' indiscretions. These were duly reported by the Committee to the Council, and forced Dr. Rogers' immediate resignation. The Treasurer was appointed as his temporary substitute. A circular announced these facts to the members, and advertisements that Dr. Rogers had ceased to be Secretary were inserted in the newspapers.

The Committee of Enquiry now completed its report and presented it to the adjourned annual meeting which took place on 12 May, 1881. A supplementary report of the Council was also submitted, stating that it had, independently and unanimously, come to the same conclusions as the Committee. In Lord Aberdare's absence Mr. Cornelius Walford, a leading opponent to the historiographer, took the chair. There was a fierce debate in which Dr. Rogers warmly participated. But a resolution reappointing him historiographer was ruled out of order. The meeting became disorderly and " it being now 10.30 " the Chairman adjourned the proceedings for a week. " After this some of the persons in the room proceeded in a most disorderly manner." " Several gentlemen then adjourned to another room and assumed to hold a meeting." Next day the newspapers announced that at this meeting Dr. Rogers was reappointed Secretary and Historiographer. This was promptly contradicted. There soon followed contradictory advertisements in *The Times* and acrimonious correspondence in other papers. So things went on until on 19 May the real " adjourned meeting " took place. Lord Aberdare expressed to a crowded audience of fellows his entire approval of the course pursued by the Chairman of the previous meeting. With great prudence he declined to make any charge against anybody. Despite a " very animated discussion," during which " Dr. Rogers made some remarks in reply," the reports of Council and Committee were adopted with only a few dissentients.

Thus the Royal Historical Society lost its historiographer but secured domestic peace, financial equilibrium and a

renewed opportunity of doing something to advance the study of history. It was in vain that Dr. Rogers returned again and again to the charge, writing letters to the papers, printing pamphlets and formulating astounding allegations against his opponents. The titles of these pamphlets suggest their contents: "The Serpents' Track: A Narrative of Twenty-two Years' Persecution"; "Parting Words to Members of the Royal Historical Society"; "Cornelius Walford, Projector and Company Monger." However, his power to harm the Society ceased with his withdrawal from its ranks. Within a few years death overtook both him and his chief enemy.

I may perhaps be blamed for reviving the memory of these ancient feuds. But, after all, the main circumstances have all appeared in the newspapers, and are likely to be more sympathetically considered by those who have the welfare of the Society at heart than by the indifferent outsider to whom they open out possibilities of gossip or scandal. It is enough to realise how the severity of the crisis pulled the Society together, and how the purging of 1881 sent it forth on its mission, invigorated and strengthened for fresh efforts. We must in particular recognise the way in which the President's tact and firmness saved the situation. As was only right, the pilot who had weathered the storm remained in charge of the ship as long as he was willing to continue in his captaincy. For the next nine years he steered his craft through calm and peaceful waters. When in 1891 he gave up his post the future of the Society seemed assured.

These later years of Lord Aberdare's presidency were marked by steady progress in solvency, output, numbers and seriousness. The *Transactions* appeared with admirable regularity and, along with a mass of generalisation and doubtful stuff that would hardly be thought worth printing nowadays, they included an increasing proportion of sound and scholarly matter. In 1886 the Council boasted that the Society had gradually enlisted the sympathy and

support of those engaged in historical research in London, Oxford and Cambridge. We owe it to Oscar Browning, who became Chairman of the Council in 1885, that a Cambridge branch, including, under Seeley's presidency, most of the leading Cambridge historians, was established and for a time flourished. It was the first of many efforts to extend the activities of the Society from London to the rest of the country; but it cannot be said that any of these efforts have attained any great permanency or success. The Society sought other fields to conquer. In 1886 the Council pronounced as "worthy of consideration" a suggestion that a combination should take place between its *Transactions* and the newly founded *English Historical Review*; but there is no evidence that this consideration ever took place. In a similar spirit the Society took a leading share in commemorating in 1886 the octocentenary of the issue of the Domesday Book. It showed anxiety to be helpful in another quarter, when it interested itself in the teaching of history in schools, holding in 1887 a conference on that subject. There is ecumenical or imperial vision in a proposal that "all Historical Societies in the Colonies should be affiliated to the Royal Historical Society and that the Royal Historical Society should promote such societies in Colonies in which they were lacking." It now won more formal and official recognition. In 1887 Queen Victoria agreed to become its patron and in 1889 letters patent of incorporation established it as a legal and permanent entity. All this was largely due to the initiative of the President. Steps were taken to bring the fellows together socially. A "dining club" was projected which all male fellows were invited to join. But the only permanent upshot of this seems to have been an annual dinner, though for some years later it was the custom for the President and a few Councillors and Fellows to dine together before the ordinary meetings. The lists of members were scrutinised with a view to the removal of those who neglected to pay

their subscriptions. Financial exigencies may perhaps have justified the proposal to issue "canvassing circulars," and addressing these to a public wider than the historical public. Such a circular was to be sent to fellows of the Royal Geographical Society, to members of the Athenæum Club, and some other bodies. It is clear, then, that there was as yet no historical standard of entrance. A perplexed clergyman was surprised to find that an "evangelist" of respectable character but of little historical qualification was elected a fellow, though he had refused to recommend him, even when informed that he was the only F.R.Hist.S. with whom the candidate had any acquaintance. "I feel interested," he wrote, "as to the manner in which a fellowship had been obtained, as there should be no back-door entrance into a learned Society. Is respectability now," he asked, "the only qualification for membership?" He was officially answered that the gentleman in question was a duly elected fellow! But respectability and learning are not always mutually antagonistic. Let us rather dwell on our real accessions of strength. Thus we may record that Mr. H. E. Malden, a member since 1879, was already in that year a contributor to our *Transactions*. He was elected to the Council in 1887, and afterwards became its Vice-Chairman. He was joined on the Council on the same day by Mr. Hubert Hall, a member since 1884, and soon active in reading papers and as auditor. They are still with us and as active and devoted as ever. Only a few months ago, as members will remember, we had the pleasure of commemorating their long services by entertaining them to dinner.

Lord Aberdare's resignation was received with general regret, but he agreed to hold on until a suitable successor could be found. Oscar Browning, already Chairman of the Council, undertook to negotiate for filling up his post. He seems first to have approached S. R. Gardiner. After repeated efforts, he failed to induce that modest scholar to accept the office. Later Browning approached Lord Rose-

bery, but was compelled to report that he had definitely declined. Finally the choice of the Society fell on Sir Mountstuart Elphinstone Grant-Duff, who was elected on 19 February, 1891, and remained in office until 1899.

Grant-Duff was a more literary variant of the type of his predecessor. As the son of the historian of the Mahrattas, he had a stronger claim to be a hereditary historian than the son-in-law of the historian of the Peninsular War. He had been for many years a member of Parliament, but was perhaps more famous for his annual allocutions on foreign politics to his constituents in the Elgin boroughs than for the minor ministerial posts which he held under the two Gladstone governments. He had forsaken English politics to be a successful Governor of Madras, and was now back in England, and definitely out of politics. He was a man of great cultivation and wide literary knowledge. He had infinite tact and vast social experience, both at home and abroad. An inveterate diarist, he had already the habit of recording his experience in the notes which he began to publish while still our President. Such a man was admirably adapted to help the Historical Society on the path of progress. He took his office more seriously even than Lord Aberdare. He addressed the Society annually, mainly on subjects suggested by Greek and Roman history. He attended Councils so regularly that before long the offices of Chairman and Vice-Chairman of the Council became unnecessary and so came to a natural termination. His eight years of presidency were marked by a serious deepening of the mentality and activity of the Society, which was now running so smoothly that in 1894 it got over with little disturbance the second and last serious crisis of its history.

The early years of the new President were marked by a vigorous reorganisation of the methods pursued by the Society in earlier days. To begin with, there was a drastic purge in the membership. The fellows who never paid their subscriptions were, after many threatenings, at last

struck off the roll, and a flood of new members more than compensated for the numerical loss and considerably strengthened the Society in scholarship. A small net increase of numbers was thus established, but, as the report very truly says, "this does not adequately represent the real development of the Society in strength and efficiency." It was symptomatic of the change in policy that the quest of members from every quarter, so long envisaged but fortunately never carried out, was at last definitely abandoned, when the Council resolved that "the consideration of issuing the canvassing circular be postponed *sine die*." Administrative efficiency within the Society was gradually secured side by side with the insistence on an historical qualification for membership. The Library was rescued from a shocking condition of neglect and disorder, safely housed in a little home of its own in St. Martin's Lane and put under expert control. Departmental Committees for publications, finance and the library were strengthened or called into existence. The all-important matter of publications was seriously taken in hand. It was agreed, after much opposition, that a new officer to be termed a Director should be appointed to whom all the literary, printing, publicity and editorial sides of the Secretary's duties were transferred.

The path of reform was still difficult. The report recommending the Directorship was carried by one vote at the last meeting presided over by Lord Aberdare, but Mr. Oscar Browning's motion that the Council proceed at once to elect such an officer was lost by one vote. At a later meeting it was agreed by one vote to make such an appointment, and by the casting vote of the President, Mr. Hubert Hall was appointed in March, 1891, to the office which he still holds, thirty-five years and eleven months afterwards, to the great advantage of the Society. The immediate result was an enormous and sustained improvement in all our publications. Take the *Transactions* alone and compare the quality of the papers, printed in the years immediately succeeding Mr. Hall's appointment, and those issued in the

'eighties. We always had some good papers, but it required courage and pertinacity to eliminate the wordy generalities and platitudes of some of our early issues and to replace by solid and original contributions to knowledge what read like " popular " lectures of an antique type, and sometimes reminded one of an undergraduate's exercises read to his tutor. Within the limits of the 'nineties our *Transactions* were enriched by some of the best work that historians were then producing. It is invidious to make selections, but it is enough to say that in publishing contributions from scholars, British and foreign, of established position, our *Transactions* now introduced to the public names that have since become famous. To speak only of the dead, I may quote such names as Liebermann, Pflug Harttung, Leadam, Corbett, Cunningham, Bateson and Figgis. It was now that York Powell first pleaded in our columns for an English Ecole des Chartes and Frederick Harrison proposed the new Historical Bibliography, the modern part of which the Society expects soon to publish. Besides the *Transactions*, we published independent works of importance such as *The Domesday of Enclosures of* 1517 and Walter of Henley's *Treatise on Mediæval Husbandry*. The Domesday Celebrations in 1886 afforded an excellent precedent for the celebration of the Gibbon Centenary in 1894. Even more important was the amalgamation effected in 1897 between our Society and the Camden Society. For nearly thirty years subsequently the long row of the Camden Series has continued to bring enlightenment to scholars and credit to the Royal Historical Society.

Even now the Society was not without its troubles. The establishment of some standard of admission was not at once favourable to financial prosperity and our number of members fell back rather than grew until the welcome accession of the Camden Society members to our ranks. There were internal difficulties also. Each of the reforms sketched above had only been carried in the teeth of fierce official opposition. There was a constant struggle within

the Council between the party of progress and the party of reaction, and grave defects in business organisation were complicated by financial trouble. In 1892 the appointment of a new Honorary Treasurer in Mr. Hovenden did something to relieve the situation. But at last difficulties came to a head in 1894 and were emphasised by the tragic death of our Secretary. Occasion was now taken to simplify and regularise the whole of the administrative machine and adapt it to the requirements of our growing necessities. Mr. Hall stepped into the breach and added to his Directorship the office of Honorary Secretary. It is impossible to over-emphasise the services he rendered in minimising the effects of the crisis of 1894, which might well have become more dangerous than the previous troubles of 1880–1. Nor should the Society forget how loyally and zealously Sir Mountstuart Grant-Duff laboured hard and successfully in backing his efforts to allay these troubles and restore the Society to a wholesome condition.

The recasting of the administrative machine proved not only successful but of extraordinary permanence. Our later administrative history can be disposed of in a few sentences. For some nine years Mr. Hall continued to bear the double burden of the Secretaryship and the Directorship. He gained some relief by the appointment of Miss Curran as Librarian and Clerk in 1902, and later as Assistant Secretary and Librarian. With Miss Curran's advent we first had a resident official who can be found at fixed hours at the headquarters of the Society. She is still with us, like Mr. Hall, and we may well recognise the cheerfulness, zeal and tact with which she has ever discharged, and still discharges, the increasingly important functions that have been thrown upon her. In 1904, not long after her appointment, Mr. Hall's work as Honorary Secretary was taken over by Mr. Malden, who still holds this office. In that same year, 1904, Mr. Hovenden was succeeded as Honorary Treasurer by Mr. Tedder, who, much to our advantage, retained that office until his death in 1924.

Thus was established that continuous official personnel which went on, with only this one break, for twenty years. We can only record with gratitude and respect services so long, so competent and so indefatigable and wish to all three a long continuance in health and prosperity. To this must be added a cordial welcome to Mr. Charles Johnson, a distinguished scholar and administrator, who in 1924 stepped into Mr. Tedder's place. May our finances be long in his safe and skilful hands! This would assuredly secure the maintenance of that financial prosperity with which we have been blessed even in these years of post-war distress.

To sketch the administrative history of the Society, I have broken off a story hitherto based, like old-fashioned histories of England, on the reigns of the highly constitutional Kings called Presidents. An administrative historian may be allowed to emphasise the lesson that all history of this aspect of the State teaches, namely, that the thing which really matters is not the kings and ministers who come and go, and don't always work, but the permanent officials who build up an administrative tradition and so secure permanence and continuity. It is not that I wish to undervalue the services which our long line of Presidents have done to our Society. How great these services were I have had good reason for stressing in following out the presidential history for the period of thirty years which we have already traversed. But the resignation of Sir Mountstuart Grant-Duff in 1899 was followed by a further development of the more professional side of the Society. It is no disparagement to our first four Presidents to say that, save Grote, they were chosen for their general distinction rather than for their specialised gifts as workers at history. We have seen already the process by which a nominal figure-head, seldom or rarely seen by the Society, developed into an active and hard-working President, like Grant-Duff. We have now to enter into a second stage in which the President is also an historical worker. This is a period for which both time and inclination suggest a

slighter treatment. While nowadays we all recognise the importance of quite recent history, there is still a group of the older generation that thinks it best to deal lightly with those recent years of living memory where personal susceptibilities are still strong and where the full sources are either inaccessible or unusable. Not that the fullness of time will ever disclose any guilty secrets as to the more recent history of our Society. We dare not say nowadays, "Happy is the nation that has no history," for that dictum involves a primitive conception of what history means which we have now outgrown. But we may at least beatify the Society whose story of quiet progress affords little material for the sensationmongers of the flamboyant Press.

I am the more unwilling to speak in any detail of my predecessors during the last quarter of a century since I have had the honour to have personal relations with them all and very intimate association with the majority of them. This was pre-eminently the case with Dr. A. W. Ward, the first of the new order, whose services the Society had the good fortune to secure towards the end of that brief period of repose between his release from a very heavy administrative post at Manchester and his call to the headship of his old college at Cambridge three years later. It was not until 1899 that Sir Mountstuart's retirement enabled us to elect Dr. Ward as our President. Before a year was over, he left London to become Master of Peterhouse and in 1901 he was forced to resign in the face of the calls not only of his old college but of the University, over which he was soon appointed to be Vice-Chancellor. In that short space of time he made his mark on the Society, notably in his successful initiation of the movement for the promotion of advanced historical study in London, of which the first-fruits were the two modest lectureships to one of which our Director was called, but whose ultimate outcome was that Institute of Historical Research in Malet Street, by which the faith and energy of Professor Pollard brought into actuality the ideal sketched by Ward in the one Presi-

dential Address which he was able to give this Society. As Ward's successor to the history chair at Manchester, I have very special reasons for testifying to the affection and reverence which a personality, even more impressive than his large and varied output, inspired in all brought into contact with him. Very lately I have had occasion to publish for the British Academy an attempt towards an appreciation of Sir Adolphus Ward, and I need therefore say no more here. But as called, after an interval of five-and-thirty years, to be once more his successor, this time in the Chair of this Society, I cannot refrain from paying a warm tribute of regard to his memory.

The Society has been fortunate in retaining for the full term of office the six Presidents who succeeded Ward. The first of them, Dr. (afterwards Sir) George W. Prothero, held office from 1901 to 1905. Like his predecessor, he was enlisted in the service of this Society as soon as he settled in London after giving up his Edinburgh Chair. Though his hands were full of other business, no President has ever shown more care and devotion to the interests of this Society. Not only during the four years of his Presidency, but for the rest of his life up to his lamented death in 1922, he had our prosperity very near at heart. Now that we have lost him, the presence of Lady Prothero at our gatherings shows that his spirit is still among us. It is not without reason that he has been called a second founder of the Society. He carried further the help which the Society had already given to promote advanced historical teaching. He projected and planned the bibliography of modern British history which, we hope, will now soon see the light. Above all, we owe to his personal liberality and energy the beginnings of a library worthy of the claims of that science which, above all others, has most need of many books. He appreciated fully the new doctrine that the library is the laboratory of the worker at history.

Both library and laboratory need to be adequately housed. So long as the Society was compelled to shift its

quarters from place to place, always finding that its temporary abode was too small or inconvenient for its immediate requirements, so long our equipment could not be regarded as satisfactory. St. Martin's Lane was an improvement on what had gone before, though a later President described it as "unseemly and uncomfortable." But in 1900 we received notice to quit. In 1901 we migrated for the first time to rooms of our own in old Sergeant's Inn, which Dr. Prothero described as "not large, perhaps hardly large enough, but they are our own and will serve for the present." This first home of our own hardly survived Prothero's Presidency. Within six years Sergeant's Inn was in the hands of the housebreakers, to make room for a bank and an insurance office. Then followed the establishment in South Square, Gray's Inn, which many of us still remember. There we found space for our increasing library and "a room large enough to seat rather more than the average attendance at our meetings." Yet by the beginning of the War we had outgrown these premises also. In 1914 we made our final move into our present roomy house. Miss Curran was, I believe, the original discoverer of this noble mansion, and this is the more heroic of her since it was on her that the chief burden of our migration fell. But she doubtless welcomed a permanent abode where she can dispense books, cheerfulness and tea to all comers, without a horrid vision of future house-moving, at least not until the end of our lease, still fortunately some years ahead. Here we are not only at home but are able to offer hospitality to other kindred bodies. Not least among these is the Historical Association, which has happily taken off our shoulders the problems of historical teaching in schools that weighed somewhat heavily upon our founders.

I have wandered far from the Presidency of Sir George Prothero, but the transition was a natural one since his munificent gifts of books were among the chief causes of our quest for more room. Even the first of these migrations was, after he had been succeeded as Presi-

dent by Dr. William Hunt, who from 1905 to 1909 preached the same doctrine of developing our Library of which his predecessor had been the apostle. We are entering into a quiet period, the calm before the storm. The Society continued to grow and prosper, and owed much to the encyclopædic learning, the wisdom, tact, and *bonhomie* with which Dr. Hunt guided its deliberations. All the historical world has long recognised the great width of Dr. Hunt's historical knowledge, though I am not sure that full justice has always been done to all his gifts. In variety and extent of output few of us have ventured to approach him. I can say the less of him since he is still with us, still enjoying life at a good old age and still as keen as ever on historical work, and watching with interest the fortunes of our Society. Our Presidents here set a good example of longevity, and that he may break their record, as he is in a fair way of doing, will be the expectation and wish of all his friends and admirers.

To Dr. Hunt succeeded Dr. William Cunningham, whose Presidency ran from 1909 to 1913. Professor, preacher, divine, economist, politician and historian, he studied and wrote about many subjects. He brought to us a breath of fresh air from his Scottish home, tempered by economic breezes that had their origin on the banks of the Cam. Scottish history and economic history were the sources of what was most original and attractive in his presidential harangues. We shall remember him, most of all, for the magnificent courage with which he essayed to reduce to textbook shape our all uncharted knowledge of British economic history, and admire the extent to which he succeeded. But perhaps he will be even better remembered for the way in which his forceful and vigorous personality enlisted the youth of Cambridge to enter under his guidance into the cultivation of the new and fruitful field in which he had ploughed the first furrows. We count it as our good fortune that some of the best work of his disciples

has been published under the auspices of this Society. He died in 1919, full of years and honours.

After Archdeacon Cunningham's retirement a younger generation came into the Presidency. His three successors are all my juniors, though two or three years does not make much difference to those who are reaching the traditionally allotted span. The first of the three was Professor Firth, who acted from 1913 to 1917. His early term of office marks the culmination of the activities which had been developing during recent years of quiet prosperity. To this no one had contributed more than the new President who for years has made our *Transactions* the vehicle for conveying to the world the results of his remarkable investigations into the economy of the Ironside army, the tactics of Dunbar and a whole series on ballad history between Henry VII and Charles I. Moreover, his *Clarke Papers*, his *Strafford Papers* and his *Narrative of General Venables* have made more illustrious the seventeenth-century record of our Camden Series, though it had been distinguished by much of the best work of S. R. Gardiner. Mr. Firth was hardly in office before the Society was called upon to play a leading part in the organisation of the memorable International Historical Congress of 1913 which brought together for the last time for many years representative scholars of nations which, some fifteen months later, were to plunge into long-continued mortal conflict. All who remember that strenuous April week of meetings will record with pride the large share of members of our Society in its doings; how one of our ex-Presidents, Dr. Ward, made the most dignified, tactful and impressive of Presidents, how another, Dr. Prothero, worked indefatigably behind the scenes in lubricating the improvised machinery of the administration of the Congress, and how ably the then President, Dr. Firth, presided over the dinner which we gave to the foreign delegates and directed the deliberations of the Modern History section. New schemes were now in the air; the Modern Bibliography was to be pushed forward; a Magna

Charta Centenary in 1915 was prepared for; the lease of the house we now occupy was purchased. Then came the disaster of the War, and consequently four years of stagnation and six of slowly winning back our lost ground. On the whole, we held our own better than most similar societies and that despite the increased expenditure involved in the change to our new premises. It is true that the bulk of our publications lessened, our volumes of *Transactions* becoming increasingly slim. But we never ceased publishing; we never ceased our meetings and we always maintained a satisfactory financial position. Even during the War we kept our Magna Charta Celebration and the War was partly over when we published our Magna Charta volume which was the more valuable since it gave rise to lively controversy. More than that, peace was hardly settled when we revived old schemes and started new ones. Thanks to Sir Charles Firth, the seventeenth-century bibliography is now nearly ready for the press. Thanks to others, a new departure was made in the Camden Series by the volumes set apart for the publication of *British Diplomatic Instructions*, 1689–1789, the firstfruits of which Mr. Chance and Mr. Wickham Legg have issued in 1922 and in 1925. With us, as elsewhere, there has been a strong trend towards recent history, and if not to foreign history, to the history of our foreign relations. Twenty years ago Sir George Prothero complained that we were too mediæval and too insular. The pendulum is swinging round with a vengeance. Perhaps his successor may have to regret that we are not mediæval and not insular enough. But I must not at the moment desert history for prophecy.

That the Society has held its own in the evil days is a tribute to the faith and courage of its members and still more to the good fortune that the Society has from its earliest days included women as well as men among its members. In the remote past there were always "lady associates," and, as the relations of an associate to a member were never clearly defined, the "lady associates" drifted

into the position of "lady members." We have to give the peccant Dr. Rogers some at least of the credit of the Society's early recognition of the "rights of women." "We have been charged," he declared in 1879, soon before his fall, "we have been charged with innovation. I plead guilty to that charge; for I hold that a Society without ladies is like a garden without flowers, and that meetings to which we cannot bring our wives and daughters shall not have our countenance." The only touch of exclusiveness that I have noted after that noble utterance was the instruction in 1889 that while notice of the annual dinner was to be sent to all fellows, including ladies, fellows should only be allowed to bring their male friends as guests. Women's membership involved after an interval papers from women and a high standard was soon set for these in the best of the early work of that great scholar, Mary Bateson. Women's membership of Council followed rather slowly; there was certainly none in the 'nineties when my personal memory begins, and I have not found such recorded until 1919 when Miss Rose Graham became a Councillor. But the women saved the situation in the years of the War in this Society as in many other things.

It was well for us that we had in those trying years the continued help of our permanent staff of Honorary Secretary, Director, Honorary Treasurer and, not least, our Assistant Secretary and Librarian. We owe much also to the tenacity and courage of the Presidents of those years. Professor Firth remained in the chair until 1917, though many of his plans were perforce suspended and he harangued us no longer on the seventeenth century but on studies of foreign policy suggested by the War. When he resigned, we were fortunate in persuading Professor Oman to take up his succession. It needed a man of Sir Charles Oman's splendid versatility and courage to add the presidency of this Society to his war work as a "very busy government servant, kept tight to three different desks in Whitehall from 10.30 a.m. to 8 p.m. on most days of the week." Yet

he managed to preside over our meetings and delight us with yearly presidential addresses, in which all history was ransacked to illustrate themes suggested by the business of the moment. When peace was won, his election to represent Oxford University made him the first President of the Historical Society who sat in the House of Commons during his period of office with us. When in 1921 his normal period as President came to an end, one military historian gave place to another. The historian of the Peninsular War was succeeded by the historian of the British Army. Both alike are among the rare historians of our age who have not shirked from the labour and responsibility of the *ouvrages de longue haleine*, and both are to be congratulated on the completion or near completion of their tasks. I suspect it was the issuing of the last volume of his monumental *History of the British Army* that gave Mr. Fortescue the leisure to devote himself to the presidency of this Society. What vigour and energy he put into the work those of you living in London will know better than I can, but the impression of his geniality, effectiveness, and popularity has gone far afield. His successor may perhaps single out for special admiration the courage which substituted for the intimate address which custom seems to have imposed on your Presidents a dissertation of a more objective character. Had I known earlier of this teaching by example, I might have taken advantage of it. Unluckily the knowledge came too late to spare me the researches into our archives which preceded this present utterance. Yet my investigation of the sources of our history has afforded me such delight and instruction that I could hardly have wished it to be otherwise. No doubt the sportsman finds greater joy in the pleasure of the chase than he derives from the consumption of the products of his sport. Many historical investigations which have thrilled the researcher with excitement have, when presented to the learned world, proved soporific to readers and hearers. If my harangue has bored you, I can plead

in mitigation that the quest of the material for it has amused me. But it has also convinced me that, though the Royal Historical Society has had its ups and its downs, it has had a wonderful way of shaking off misfortune and rising to new flights of energy and activity. While we have good reason for content with the present, we may well have confidence in a still wider future. How we stand now and on what lines we may most profitably advance, may well be left for another day.

IRISH PARLIAMENTS IN THE REIGN OF EDWARD II

By Miss M. V. Clarke, M.A., F.R.Hist.S.

Read 10 *December*, 1925

At the death of Edward I Ireland was, in theory, equipped with institutions on the English model. The various parts of the machinery of Irish government had been assembled and put together in the century following the Conquest. Imitation of English institutions was necessarily close, as the Anglo-Norman colonists were not content with anything less than their full share in the constitutional rights enjoyed by themselves or their kinsmen in England. From the first, the head of the English government in Ireland was the Justiciar; his duties were vice-regal and he obviously borrowed his title from the Anglo-Norman officer who acted as royal deputy in England. He was *ex officio* president of the King's Council in Ireland, a body which normally consisted of the chief officers of the Crown, but which was sometimes afforced by the attendance of the magnates and free tenants of the colony.[1] The *curia regis* in Ireland was represented by the Court of the Justiciar; pleas which in England would have been called *coram rege* were heard by him and entered on the Justiciary Rolls.[2] The oldest of the committees of the *curia regis* in Ireland was the Exchequer, which was probably constituted very soon after the Conquest.[3] There was apparently one Itinerant Justice

[1] In 1228 the Justiciar was commanded to summon the magnates, knights, free tenants and bailiffs of the several counties of Ireland to hear the reading of Magna Carta (Close Roll Eng. 12, Hen. III).

[2] The first recorded Justiciar was Hugh de Lacy in 1172 (Hoveden, II, 34), but the earliest plea-roll extant was for 23 Edward I. A calendar of the rolls for 23–35 Edward I was published by the Stationery Office.

[3] The first reference to the Exchequer in Ireland is dated 1200 (*Calendar State Papers*, Ireland, Vol. I, No. 118). The earliest Pipe Roll, extant in 1922, belonged to 13 Hen. III.

in the reign of John and with him two others were associated in 1221.[1] Justices De Banco are not mentioned by name before 1251; they were perhaps set apart for the first time in the previous year when a special escheator was appointed for Ireland.[2] Before 1232 there was no separate Chancery for Ireland and, perhaps, no Irish Chancellor. In that year the Chancery of Ireland was granted to the English Chancellor, who was to execute the Irish office by a deputy. In 1245 the appointment of an Irish Chancellor was made by the King himself.[3] The law of these courts and of the local courts established in counties, towns and liberties was the same as the law of England.[4] The appearance of the Parliaments of 1297 and 1300 was the logical conclusion of a century of constitutional development.

Pat. Roll 9 John.

Cal. Irish Documents, Vol. I, No. 985.

Ibid., Nos. 3209, 3077.

Ibid., No. 1988.

Ibid., No. 2796.

The Irish Parliament developed out of the Magnum Concilium, under royal direction and in imitation of the English representative system. Its organisation followed the Model Parliaments of Edward I so rapidly that there can be no doubt that the King regarded it as a necessary aid to government. The first Parliament for which there is record was held, probably at Dublin, in 1297.[5] Writs of Summons were sent out not only to the prelates, earls, barons, and other chief persons of Ireland, but also to the sheriffs of ten counties and the seneschals of five liberties, commanding them to cause to be elected in the full court of the county or liberty two of the most honest and discreet knights of the several counties or liberties to come to the

Early Statutes, pp. 195 *sq.*

[1] Rolls of the Itinerant Justices were extant for the years 36 Hen. III to 5 Ric. II and for 13 Hen. IV.

[2] De Banco rolls were extant from 6 Edward I.

[3] The earliest Chancery roll extant was that of 31 Edward I.

[4] See Maitland's *Collected Papers*, II, 81–3, 130–4. A register of between 50 and 60 writs current in the English Chancery was sent to Ireland in 1227. It was accompanied by a royal ordinance declaring that all seeking legal redress in Ireland should have justice according to the custom of the realm of England, cf. *Early Statutes of Ireland*, pp. 3, 4, 20–1.

[5] Credit for the work of organising the Irish Parliament ought, probably, to be given to John Wogan, who was Justiciar from 1295 to 1307 and again from 1309 to 1312.

assembly with full power from their communities to do and receive (*faciendum et recipiendum*). The sheriffs and seneschals were also commanded to be present in person. No representatives were summoned from the cities and boroughs. This Parliament enacted twelve statutes, most of which dealt with the maintenance of order and frontier defence. Three years later, (Easter, 1300), the financial demands of the King led to a further development in parliamentary representation. Edward I caused writs to be issued to the prelates, magnates, cities and boroughs of Ireland, demanding a subsidy for the Scottish war. The Justiciar issued writs for a general Parliament at Dublin summoning prelates and magnates to come in person. The communities of the counties were commanded to send two, three, or four representatives, and the communities of the cities and boroughs two or three. Before Parliament met the Justiciar visited in person the cities and boroughs and extracted from them promises to contribute a fixed sum towards the subsidy. Twenty-three towns in Leinster and Munster were thus visited and made promise of contributions varying in size from 260 marks promised by Drogheda and one mark promised by Modreeny (Co. Tipperary). When Parliament met it excused itself from granting the subsidy and requested the Justiciar to make a second tour to raise the rest of the money demanded by the King.[1] This was accordingly done, and pledges of payment were extracted from the lords of liberties, the religious houses and cross-lands (ecclesiastical estates), throughout Leinster and Munster. This curious procedure suggests that the power of representatives to bind the communities they represented was not yet established in Ireland. The Justiciar certainly found it easier to overawe the local groups one by one than to coerce a general assembly. A similar plan was adopted by Philippe le Bel when raising subsidies for the Flemish war in 1303 and 1304; though

Early Statutes, pp. 229 *sq.*

v. P. Viollet: *Institutions Politiques et Administratives de la France*, Vol. III, p. 183.

[1] Pipe Roll of 31 Edward I accounts for this subsidy.

the States General was twice summoned for the purpose, the townspeople were consulted locally.

At the accession of Edward II the Irish Parliament resembled that of England very closely, yet political conditions in the colony made it improbable that it would develop on precisely similar lines. It was still little more than a Council of Magnates and had no tradition of responsibility behind it. It did not actually take shape as a constitutional body until after 1307, and for this reason its history during the twenty years of Edward II's reign is worth some attention. There is record of eleven *Parliamenta* in Ireland between 1307 and 1327, but of these only four are known to have been full Parliaments for which legislation is extant.[1] The material for their history is scanty and dispersed. No statute roll exists before the fifth year of Henry VI's reign. Earlier statutes have been collected from a variety of sources, but their preservation has been accidental and unsystematic. All those hitherto discovered have been edited by Doctor Berry for the official publication known as *Early Statutes of Ireland*. Some supplementary evidence can be gathered from official records, ecclesiastical registers and the meagre comments of Anglo-Irish chroniclers Enough has been preserved to enable some general conclusions to be formed about the composition, procedure and business of Edward II's Parliaments and to trace their relations with the government of England.

From the first the Irish Parliament was exclusively colonial in its composition ; throughout the Middle Ages no Irish names occur in the lists of magnates summoned. Bishops or clerical proctors of Irish birth may sometimes have been present, though the jealousy with which the native and Anglo-Irish clergy regarded each other makes their presence improbable.[2] In a letter from Edward II to

Rymer : *Fœdera* (Rec. Ed.) II 294.

[1] See Appendix I for list of Irish *Parliamenta* in Edward II's reign.

[2] This jealousy is illustrated by constant complaints that Irish were excluded from Anglo-Irish religious houses, and vice versa. An Act of Exclusion was passed by the Kilkenny Parliament in 1310 (3 Ed. II, cap.

the Pope, written in August 1316, it is stated that if an Irishman became Archbishop of Cashel English authority would be seriously endangered. As in the same letter the native Irish (*puros Hibernicos*) are described as *bestiales et indoctos*, it seems unlikely that writs of summons were often issued to Irish prelates. The Irish had no share in the election of members of Parliament, as they were excluded from county courts and governing bodies of cities and boroughs. The conclusion reached by Sir John Davies in 1613 seems to be correct. "Before the thirty-third year of Henry VIII," he wrote, "we do not find any to have had place in Parliament but the English of blood or English of birth only. For the mere Irish of those days were never admitted . . . because their countries, lying out of the limits of counties, could send no knights, and having neither cities nor boroughs in them, could send no burgesses to Parliament. Besides, the State did not hold them fit to be trusted with the counsel of the realm."[1]

The Irish Annals do not contain a single reference to Parliament in the reign of Edward II, but we know that its existence and purpose were understood by the native princes. In the complaint addressed by Donald O'Neil, King of Ulster, and the princes and people of Ireland to John XXII reference is made to "the common council of the King of England . . . in the city of Kilkenny," and the statute excluding Irish from monasteries among the colonists is accurately quoted, though its revocation by the Justiciar in the same year is ignored.[2] The words *inter Anglicos* are added to the phrase *per consilium totius terrae Hiberniae* which concludes the statute, an addition suggesting consciousness of exclusion. The only occasion in the reign when the Crown attempted to conciliate and make use of the

Scotichronicon, XII, 26.

3 Ed. II, cap. 10.

10); it was mentioned in the complaint of the Irish princes to John XXII in 1317 (Fordun: *Scotichronicon*, Lib. XII, cap. 26).

[1] Sir John Davies: *The Irish Parliament*, p. 401 (Morley's edition).

[2] The real object of the petition was to induce the Pope to withdraw the excommunication launched against adherents of Robert and Edward Bruce.

Irish chiefs was during the invasion of Edward Bruce. In 1315 Letters Close were issued to Nial O'Hanlon *dux* or prince of Orion (Armagh), and twenty-one other Irish *duces* requesting them to give credence to the Justiciar, Chancellor and Treasurer of Ireland, who will explain to them by word of mouth certain of the king's affairs, which they will carry out and expedite.[1] Similar letters were sent at the same time to 16 prelates, 36 Anglo-Irish magnates and the governing bodies of seven boroughs.[2] As it was obviously difficult to communicate locally with these eighty-five persons by word of mouth while war was raging in every province of Ireland, it may have been the intention of the government to summon an assembly of notables to organise general resistance to the Scots. One of the letters is printed by Rymer as a parliamentary writ. There is no evidence that such an assembly was convened, but the documents suggest that the possibility of summoning Irish princes to discuss the affairs of the realm in a central assembly was considered by the executive.

Although the Irish chiefs and their subjects were excluded, the Parliaments of Edward II were not oligarchic, or even feudal, in composition. Though detailed evidence is lacking for every Parliament except that of 1310, enough has survived to show that the colonial population was fully represented. No doubt political conditions made it important for the Justiciar to win the support of the whole free community for the legislative measures brought before Parliament. As a result the Anglo-Irish seem to have been more fully represented in Parliament than the English even at a much later date. An unusually large number of persons, lay and ecclesiastical, were summoned by special writ. The counties were represented by two members and

[1] Lascelles: *Liber Munerum*, Vol. I, iv, p. 7. The summary in the *Calendar of Close Rolls* (p. 218) is curtailed and mangled. Nial O'Hanlon is called Duke of Erche.

[2] The boroughs were Dublin, Waterford, Cork, Ross, Drogheda, Kilkenny, and Trim.

possibly their sheriffs ;[1] the liberties returned two members and possibly their seneschals ;[1] the boroughs in both counties and liberties sent two members ; and the cathedral chapters and diocesan clergy probably sent proctors to Parliament from an early date.

The Irish Patent Roll of the third year of Edward II's reign contains a list of eighty-eight secular[2] persons summoned to the Kilkenny Parliament of 1310 by special writ, thus making it possible to discover who were entitled to be summoned by such writs. When the majority of these persons are identified and their conditions of tenure ascertained it becomes clear that writs of summons were issued arbitrarily and not in accordance with feudal or legal rules. All who held *per baroniam* were not summoned. Neither Edmund Butler, who held his estates in Tipperary by twenty-two services, nor Theobald de Verdun II, who held the Western half of the liberty of Meath, was summoned. Both were of full age and acted as Justiciars in 1314 and 1315 respectively. Roger Mortimer of Wigmore also received no writ, though he held the liberty of Trim[3] and the honour of Dunamase in Offaly. No one of the three great absentee noblemen,[4] who held portions of the Marshal inheritance in Leinster, was summoned nor was Richard de Clare, who was then fighting a losing battle against the O'Brians to retain the land of Thomond.[5] There can be no doubt that in Ireland as in England the possession of

Early Statutes, p. 258.

"Exchequer Mem.," *E.H.R.* 1903, p. 505.

Report on Dignity of a Peer, Vol. I, p. 241.

[1] The sheriffs and seneschals were certainly instructed to be present with the elected members of 1297 (*Early Statutes*, p. 196), but it is doubtful if this practice was continued.

[2] Henry, bishop of Clogher, is included in the list, but this is certainly a mistake as there was no such bishop of Clogher in 1310.

[3] Meath (West Meath and the liberty of Trim) was held by fifty services (*E.H.R.* 1903, p. 505).

[4] In 1310 most of the liberty of Carlow was held by Thomas of Lancaster, the liberty of Wexford by Aylmer de Valence, Earl of Pembroke, and the liberty of Kilkenny by Gilbert de Clare, Earl of Gloucester and Hereford (Orpen, Vol. III, chap. 26).

[5] Thomond is the modern County Clare. It was held of the King by ten services, and therefore may not have been reckoned a barony.

a barony did not confer the right to be summoned to Parliament.

E.H.R. 1903, pp. 497 *sq.*

As in England the summons was not limited to those who held *per baroniam*.[1] Irish Exchequer Memoranda of the reign of Edward I contain a list of persons owing knight services to the King of England. Certain of the names occur also in the list of those summoned to the Parliament of 1310, and in nearly every instance the tenant owed far less than the thirteen and a half services which constituted a barony. For example, Walter le Bret was summoned to

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Parliament in 1310, though according to the *Memoranda* he held his lands of Rathfarnham in the Vale of Dublin by only one service and seven-tenths. The writ of summons was not even limited to those who held their lands directly from the Crown. Of the eighty-eight persons summoned not more than eleven can with any certainty be described as tenants-in-chief, while by far the greater number of them were the vassals of the nine or ten great feudatories who held honours, liberties and provinces in Ireland. Almost a third (twenty-five out of eighty-eight) can be proved to be vassals of Anglo-Irish tenants-in-chief, chiefly of the Earl of Ulster and Roger Mortimer of Wigmore.[2] The proportion of sub-tenants would probably be still greater if all the tenements held by those summoned could be identified.

Stubbs: *C.H.*, II, 186.

Thus a rough analysis of the list of persons summoned to the Parliament of 1310 shows that tenure imposed no limitation on the royal right of summons. This conclusion seems to run counter to the feudal theory that only the tenants-in-chief of a lord were members of his court and

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council. The Report on the Dignity of a Peer suggests that in England tenure was not a condition precedent to sum-

Pike: *House of Lords*, p. 116 *sq.*

mons, but the only example cited in proof is that of Warin de Lisle, who held the manor of Kingston Lisle as a mesne

[1] The case of Thomas Furnivall (1326) is cited by Anson to prove that in England the King's right of summons was not limited to persons holding *per baroniam* (*Law and Custom of the Constitution*, Vol. I, p. 204, 1922 edition).

[2] For a list of sub-tenants see Appendix II.

tenant. The Irish Parliament furnishes a number of examples showing that the Crown was able to call upon all classes of tenants for advice and counsel. No doubt the great number of sub-tenants summoned was due partly to the small number of tenants-in-chief, certain of whom were permanent absentees.

As there were then very few counties and boroughs in Ireland, the number of members returned by election was bound to be small. It seems probable that the Executive hoped to use the commoners to counterbalance the magnates, who dominated the country by their great territorial influence. Judged by its legislation, the main object of Edward II's Irish Parliaments was to restore public order by compelling the magnates to protect the marches, control their retainers and abandon private war. The country gentry or sub-tenants formed the largest class among the colonists.[1] During the thirteenth century they had shown themselves to be loyal to the Crown and prepared to obey the orders of royal officials. As those who had most to lose by rebellion and war, they were ready to support any measures likely to bring about peace and security.

It is impossible to determine whether the same plan was followed for the other Irish Parliaments of Edward II, as no writs of summons have been preserved. From what we know of Edward III's reign, the number summoned seems to have decreased steadily. Only forty-two special writs were issued to secular persons in 1374, thirty in 1377, and twenty-four in 1382.[2] By the end of Edward III's reign the Crown seems to have abandoned its claim to call the lesser gentry to Parliament. In 1377 Walter Lenfaunt

[1] Geoffrey de Geneville was able to lead 2,000 vassals from Meath in 1276 (*Cal. Doc. Ireland*, Vol. II, p. 257).

[2] *v.* Betham : *History of the Constitution of England and Ireland*, pp. 316, 323, 328. It is possible that the transmission of the *Modus Tenendi Parliamentum* may have led to the adoption of a uniform system of summoning only tenants *per baroniam*. Unfortunately the history of the Irish version of the *Modus* cannot be traced back beyond the sixth year of Henry IV's reign (*v.* O. Armstrong : *Proceedings of the Royal Irish Academy*, 1923).

Cl. Roll. Chancery, Dublin, 51 Ed. III; cited by Lynch, *Feudal Dignities*, pp. 123 *sq.*

was fined for failure to attend Parliament when summoned by special writ. He petitioned against the fine and pleaded in the Justiciar's Court that he was not a tenant *per baroniam* and therefore ought not to have been fined for non-attendance. The Court decided that it was not the custom in Ireland that those who did not hold *per baroniam* should be summoned to Ireland or fined for non-attendance.[1] The legal doctrine of barony by writ was apparently not adopted in Ireland.[2]

"Excheq. Mem.," *E.H.R.* 1903.

It is difficult to ascertain the names and number of prelates and other clergy who were present at Edward II's Irish Parliaments, as no writs of summons are extant. Five are mentioned by name as present at the Parliament of 1310, but there must have been many others present and still more summoned. There were four archbishops and twenty-nine bishops in Ireland at the beginning of the fourteenth century. The standing feud between the native clergy and Anglo-Irish ecclesiastics excluded the bishops and clergy of dioceses in Irish hands from any contact with the colonial Church.[3] Yet it would not be safe to infer that bishops whose dioceses were among the Irish never came to Parliament as sometimes Englishmen were appointed or provided by the King or the Pope. Fortunately the Irish Pipe Rolls for the reign furnish a clue, as they record the names of all sees of which the temporalities were in the King's hand at the time of a vacancy. The sees where the custody of temporalities was in the hands of the metropolitan certainly sent no prelates to Parliament and were known as dioceses *inter Hibernicos*. Thus by compiling a list of dioceses *inter Anglicos* and testing it from a list of

[1] "Non est juris seu consuetudinis in dicta terra nostra hactenus usitatae, quod aliqui, qui per baroniam non teneunt ad parliamenta nostra summoneri seu occasione absenciae suae ab eisdem amerciari deberent."

[2] Lynch: *Feudal Dignities*, pp. 123 *sq.* No instance of a claim to a barony by writ is known in Ireland.

[3] In the complaint to John XXII (1317) it is stated that Anglo-Irish ecclesiastics, especially the Archbishop of Armagh and the Abbots of Inch and Granard, were in the habit of preaching "that it was no more sin to kill an Irishman than to kill a dog."

episcopal vacancies in the reign, the names and number of prelates summoned to Parliament can be reasonably conjectured.[1] According to this calculation all four archbishops and nineteen bishops were *inter Anglicos* and probably received writs of summons. Of the nineteen bishops two belonged to sees which are described on the Pipe Rolls as "situate among the Irish where no Englishman dared to distrain or act for the King's advantage." [2] The bishops of seven other sees during the reign did not receive Letters Patent informing them of changes in the Executive, and as their dioceses were remote and poor it is improbable that they came to Parliament.[3] This deduction leaves a total of sixteen prelates, which perhaps represents the average number summoned. Ten were summoned in 1359 and eighteen in 1374.[4] The Cathedral Chapters and diocesan clergy *inter Anglicos* probably returned proctors to Parliament in Edward II's reign. The earliest record of their summons comes from the Register of the Archbishop of Armagh in the year 1375, though the practice may date from the origin of Parliament. They continued to sit in Parliament until the Reformation. It is impossible to ascertain the names and number of religious houses represented in Edward II's Parliament. The Priory of the Hospital of S. John of Jerusalem (Kilmainham) alone is mentioned by name. The number probably varied very greatly as only two were summoned in 1359 and fourteen were summoned in 1374.[5]

Cal. Reg. Archbishop Sweteman, p. 285.

Early Statutes, p. 264.

The system of summoning elected representatives was apparently standardised in 1310. In 1300 the communities of the counties were commanded to send two, three or four

Early Statutes, p. 231.

[1] See list of dioceses *inter Anglicos* and *inter Hibernicos* in Appendix III.

[2] The dioceses of Killaloe and Ardagh. Report 42, Deputy Keeper, pp. 45 and 58.

[3] The bishops of Clonfert, Emly, Ross, Annadown, Achonry, Connor, and Clonmacnoise.

[4] Lynch: *Feudal Dignities*, pp. 315, 323. Copies of Writs of Summons.

[5] Lynch: *Feudal Dignities*, pp. 315, 323.

representatives, and the communities of cities and boroughs two or three. In 1310 the number of selected representatives was fixed at two from every community summoned through the sheriffs. The liberties, which returned members in 1297, are not mentioned by name in 1310, but it is hardly possible that they were not covered by the term *comitatus*. They returned members regularly to the Parliaments of Edward III and Richard II.[1] In 1310 there were five[2] great liberties or counties palatine in Ireland, comprising the most prosperous part of Leinster and the whole of the colonised portion of Ulster. After Bruce's invasion Kildare, Desmond (Kerry) and Louth were made liberties, and Tipperary was given as a liberty to James Butler at the end of the reign. These nine liberties may not all have returned members to Parliament; in the reigns of Edward III and Richard II writs do not seem to have been issued to more than six. The sheriffs of the cross-lands within the liberties were frequently instructed to return members,[3] but there is no evidence to show that this practice was followed in Edward II's reign. There can be no doubt that the number of liberties as large as counties in Ireland made it necessary for the Crown to check the growth of the palatine rights which were enjoyed by Chester and Durham.[4] In England the lord palatine held his own courts for his subjects and did not permit them to attend Parliaments either as peers or as commoners. In Ireland the Crown retained much more legal control, though in

Early Statutes, pp. 195 *sq.*

[1] See Writs printed in Lynch's *Feudal Dignities*, chap. XI.

[2] Wexford, Carlow, Kilkenny, Meath (divided into West Meath and Trim) and Ulster (modern counties of Antrim and Down). Kildare had been a liberty until 1297, when it was made a county by Act of Parliament (*Early Statutes*, p. 199, 25 Ed. I, cap. 1). These five liberties returned members to the Parliament of 1297 (*ibid.*, p. 194).

[3] Lynch: *Feudal Dignities*, Writs in chap. XI. The liberties returning members were Meath, Ulster, Kilkenny, Kerry, Wexford, and Tipperary; Carlow and Kildare seem to have relapsed into counties.

[4] The whole subject of Irish Liberties has not yet been investigated. Considerable material exists for a study of the liberty of Meath.

practice nearly all the great liberties were completely independent of the Crown by the end of the Middle Ages.[1]

In addition to the nine liberties there were five counties in Ireland in the reign of Edward II—Dublin, Waterford, Cork, Limerick, and Roscommon. Connaught was reckoned a county in 1297, but as its sheriff did not render any accounts during the reign of Edward II, and as it does not appear to have had any writs of summons in the reign of Edward III and Richard II,[2] it is improbable that it returned any members in the fourteenth century. Like Thomond, Wicklow, Leix, Offally, and the whole of Ulster west of the Bann, Connaught was not made shire ground during the Middle Ages. Fourteen counties and counties palatine may have returned members to Parliament between 1307 and 1327, but it is more than possible that members from distant counties ignored the writs of summons.

Early Statutes, p. 195; *Cal. Justic. Rolls*, 1295, p. 73.

No names or numbers of Irish cities and boroughs returning members in Edward II's reign have been preserved, though a record of their summons through the sheriff or seneschal has survived for the Parliament in 1310. At that period the cities of the colony were prosperous, loyal to the Crown and very hostile to the magnates. The presence of burgesses in Parliament was no doubt intended to assist the Executive in passing legislation to reduce the power of the magnates. In the reigns of Edward III and Richard II, the number of cities returning members increased from nine to twelve between 1359 and 1392.[3] Accounts from only seven[4] cities appear on the Pipe Rolls of Edward II, and probably not more than that number returned members to Parliament. According to these calculations, between

[1] For example, the Earl of Desmond was virtually sovereign in West Munster by the end of the fifteenth century, and claimed the significant privilege of "never attending Parliaments nor entering any walled city."

[2] See Lynch: *Feudal Dignities*, chap. XI.

[3] See Lynch: *Ancient Cities and Towns of Ireland*, p. 31.

[4] These were Dublin, Drogheda in Louth, Drogheda in Meath, Waterford, Youghal, Cork, and Limerick. Reports of Deputy Keeper, numbers 39 and 42. Accounts were not rendered from any boroughs in Connaught or Ulster.

forty and fifty commoners should have been returned to Parliament, though no doubt the number of those who actually attended was considerably less.

The Irish Parliament ultimately took over from the Council a great mass of judicial business. The details of this transference cannot at present be traced as the evidence is not available. The Justiciary Rolls for the last twelve years of Edward I's reign contain four sets of entries,[1] entitled *Pleas of Parliament.* These pleas were heard before the Justiciar and council and represented a variety of subjects brought forward in the form of petitions. Most of them are appeals against actions of Crown officials, especially the Escheator of Ireland. It is still impossible to trace the development of this jurisdiction, as the Justiciary Rolls were not published or calendared after 1307 and have now been destroyed. The only Roll of the Irish Council, earlier than the reign of Elizabeth, that has been preserved, belongs to the year 1392–3.[2] It consists of petitions and, sometimes, endorsements for the redress of grievances of particular persons. There is no reference to Parliament throughout the Roll, and it seems probable that judicial business was still monopolised by the Council. Only two private petitions to Parliament, dated 1375 and 1380, have been discovered for the fourteenth century; another belongs to 1421 and is recorded with a number of general provisions. In Henry VI's reign private petitions occur very frequently and continue to increase in number to the end of the century. Probably the decay or disappearance of other courts of justice [3] accounts for this increase. The facts suggest that in Edward II's reign judicial business did not come before full Parliament, but was dealt with by the Justiciar and Council. The failure of Parliament

Early Statutes, pp. 588–9.

Early Statutes, p. 583.

[1] *Cal. Justiciary Rolls* (Ireland), Vol. I, pp. 303 *sq.*, 382 *sq.*, 450 *sq.*; Vol. II, pp. 350 *sq.*

[2] Edited for the Rolls series by James Graves, 1877.

[3] No rolls of Itinerant Justices or Judges of Assize have been found for the period 1412 to 1509.

to acquire the prestige of a high court of law probably retarded its general development, though it does not seem to have interfered with its legislative activity or to have prevented the demand for frequent sessions.[1]

Early Statutes, pp. 289, 1320.

In Edward II's reign Irish Parliaments were not summoned to grant taxes. The only piece of evidence suggesting that financial business ever came before them deals with a purely local levy. In 1326 a Parliament at Kilkenny granted for the county of Tipperary an aid to repress rebels and felons within its borders. The statutes of the reign and the financial records do not contain a single reference to parliamentary grants of money. The entries on the Pipe Rolls show that the Crown derived its revenue from a variety of other sources [2] and was completely independent of parliamentary subsidies. The practice of asking Irish Parliaments for money grants does not seem to have begun before the second half of Edward III's reign. The elaborate negotiations which were necessary to secure a subsidy in 1300 seem to have caused the Irish Executive to disregard for a time the financial possibilities of Parliament.

Early Statutes, p. 588; *Pat. Roll*, 20 Ed. II, §22.

Early Statutes, pp. 22 *sq.*

Recent historians regard early Parliaments primarily as courts of law; an older school represented them as mainly tax-granting assemblies. The Irish Parliaments of Edward II's reign will not fit into either of these categories, as their main purpose was always legislative and political. The Irish Executive seems to have determined that Parliament was the only means of solving the problems of chronic disorder amounting to civil war. Mr. Goddard Orpen, the historian of Anglo-Norman rule in Ireland, concludes his four learned volumes with a eulogy of the *Pax Normanica*, which he claims was established in the country by the beginning of the fourteenth century.[3] A study of

[1] Cf. Pollard: *Evolution of Parliament*, pp. 42–3, 118–20.

[2] See Appendix IV for the sources of Irish revenue in the reign of Edward II.

[3] G. H. Orpen: *Ireland under the Normans* (Clarendon Press, 1920), Vol. IV, chap. 39, pp. 262 *sq.*

Irish statutes of the period does not support this conclusion. Almost every enactment has the same burden; the Irish magnates are oppressing peaceful persons, they are protecting and abetting felons, they are constantly waging war with each other and leaving the marches undefended. Statutes dealing with these evils were first passed in 1297, and they were re-enacted persistently throughout the fourteenth century with only slight verbal alterations. It is usual to explain the collapse of Anglo-Norman rule in Ireland by reference to the demoralisation following the Scottish Wars of 1315 to 1318, the murder of the last De Burgh earl of Ulster, in 1333, and the preoccupation of England with the Hundred Years War. The early appearance of legislation against civil war and colonial degeneracy shows that the true causes of disintegration were in existence at the end of the thirteenth century. An increasing number of magnates were absentees and the Executive was too weak to curb the lawlessness and greed of those who remained. The native population had recovered from the shock of invasion; they had adopted a system of military organisation and were prepared to take every advantage of the geographical weakness of the colony, with its long ill-defined frontiers and *enclaves* of unconquered Irish in every county.[1]

Early Statutes, pp. 195 *sq.*

The Irish Parliaments attempted to arrest the process of disintegration by passing again and again statutes against "English rebels" and "Irish enemies." The following may be quoted as typical:

[1] The beginning of the Irish rally must be dated before 1262, when the Celtic princes invited King Hakon of Norway "to free them from the thraldom of the English" (Sturla). Cf. the invitation to Robert Bruce in 1314. The chief causes of the Irish success in winning back land from the colonists were: 1. A return to a system of military organisation. Foreign mercenaries called *gallowglasses* were brought from Argyll and the Isles and Irish troops called *bonnaughts* were employed on permanent service. 2. The domestic policy of the chiefs was strengthened by the adoption of the custom of tanistry. 3. Irish military leaders began to realise that feudal armies were unsuccessful in broken country or in winter. See E. MacNeil: *Phases of Irish History*, chap. XII.

1310. "And whereas merchants and the common part of the people of this land are [much] impoverished and oppressed by the prises of great lords of the land, who take what they will through the country, as it pleases them without making reasonable payment or satisfaction with those from whom the things are taken; and also whereas they will sojourn at their pleasure, and lodge with the good people of the country against their will, to destroy and impoverish them, It is agreed and assented that no such prises be henceforth made . . ." *Early Statutes*, p. 267, 3 Ed. II, cap. I.

"It is also agreed and assented that if any men enfeoff another of his land, with the intent of going to war or committing any other felony, and after the commission of the felony, to have again his aforesaid land, that such manner of feoffments be held for nought . . ." *Ibid.*, cap. VI, p. 271.

"It is also agreed and assented that those who have lands in the march, cause their marches to be guarded, and if any, by their negligence and their open default, and so as to destroy their neighbours and their neighbour's lands, wilfully and of malice, suffer their said marches to be destroyed and taken by Irish felons or others, whereas they might have defended them, and they do it not nor are willing to do it; but by their open default, the passes and the roads used by merchants and others who are in the King's peace, are stopped. And thereupon entrance is given to Irish felons into lands at peace, who thus shall take and destroy the neighbouring lands; in such case, it shall be lawful for the King or the chief lord, of whom the said marches shall be held, if they conquer the said marches, to hold them in their hands until the charges be paid them, which they shall have expended as well in conquering the land as in securing and guarding it." *Ibid.*, cap. IX, p. 273.

1320. "And whereas the common people are much troubled by idle men [1] and others who bear rents of divers people of the land, for being of their avowry and protection by their letters patent, and who thereby are emboldened in evil doing and burdening their neighbours and the people, on account of which *Ibid.*, XIII, Ed. II, cap. IV, p. 285.

[1] *Udynes gens*, called elsewhere *homines ociosos*, 25 Ed. I, cap. 6. They were the retainers of magnates who were billeted on their tenants in time of peace. The custom was known in Ireland as *coigne and livery*. By this means the armies used against the Scots were maintained in 1314 to 1318. See Sir John Davies: *Ireland before* 1603, pp. 228–36 (Morley's edition). Cf. the phrase *archers et autres gentz udifs* used in an ordinance against extravagant housekeeping issued by Edward II on August 6, 1316 (*Annales Londonienses*, p. 239).

none can enjoy their goods, prosecute or defend their rights for fear of such kind of patronage ; it is agreed that none henceforth grant protection, except the King and the lord of the liberty."

No doubt one reason why Irish legislation was almost exclusively concerned with problems of defence and penal measures against the magnates was that a considerable amount of legislation was still imported ready-made from England, sometimes in the form of Statutes and sometimes as Ordinances of the King in virtue of his prerogative. In Edward II's reign various statutes, some of them dating from previous reigns, were transmitted to Ireland.[1] Certain of them were confirmed by the Irish Parliament, but others were published by the authority of the King and Council. The Ordinances of the Staple (1326) applied to Ireland as well as England and Wales. Ordinances dealing specially with Ireland were issued in 1308, 1321 and 1323 ; they were concerned with administration and the interpretation of the law. It is stated that the assent of the Council in Ireland had been given to the Ordinance of 1323 ; that of 1321 was in response to a petition to the English Parliament. Many petitions from Ireland are recorded on the Parliament Rolls, and others occur among the records of the King's Council.[2] Nearly all are from private persons, asking for favours or seeking redress of personal grievances. A few general petitions from the King's lieges in Ireland are enrolled.[3] These petitions to the English Parliament and

Early Statutes, pp. 245 *sq.*, 292 *sq.*, *Rot. Parl.*, I, 458–9.

[1] The Statutes of Winchester (1307), York and Lincoln (1324). The Statutes of Westminster I and II, Merton, Marlborough, Gloucester, and " other statutes made in England by the King and Council," were confirmed by the Dublin Parliament of 1320, " saving always the good customs and usages of the land " (*Early Statutes*, p. 283).

[2] Baldwin prints certain examples in the Appendix to *The King's Council*.

[3] For example, *Rot. Parl.*, I, p. 386, 1320, and III, pp. 85–6, 1379–80. The petition of 1320 prays that the King and Council will ordain : 1. No pardons shall be issued for the death of Englishmen except by the King's special grace. 2. The Irish (Irreis) who wish may enjoy English law concerning life and limbs. 3. Men learned in law (*sachauntz de la Ley*) may sit on the Common Bench. Though favourable answers were

the transmission of statutes and ordinances show that the Justiciar and Parliament of Ireland were in no sense a sovereign body. It is still doubtful at what period the King's ordinances completely yielded to the more constitutional authority of parliamentary statutes: probably not before the reign of Henry V. The first formal declaration that Ireland was not bound by English Acts of Parliament, unless they had been accepted by the Irish Magnum Concilium or Parliament, was made in 1460. Poyning's Law, passed over thirty years later, destroyed all claim of the Irish Parliament to be an independent legislature. Its period of freedom from English control does not seem to have been much longer in the Middle Ages than it was in the eighteenth century.

The place of meeting of the Irish Parliament was determined by the Justiciar and Council. This practice was confirmed by Act of Parliament in 1320, and at a later time was sometimes abused in order to secure a docile assembly by summoning it in an inconvenient place. In Edward II's reign one Parliament met at Kildare (1309), three in Dublin, and seven at Kilkenny. The time of meeting and the frequency of Parliament seem to have been determined by the Executive. During the first part of Edward II's reign Parliaments were summoned only for some special purpose; for example, four were summoned during the years 1315 to 1317 to organise defence against Edward Bruce's invasion. In 1320 it was enacted "that there be a parliament each year . . .[1] times at least." This enactment was perhaps in imitation of one of the articles of the English Ordinances. Sometime before August 1316 the people of Ireland had petitioned the King and Council that a Parliament should be held in that land annually. The law of

13 Ed. II, § 7. *Early Statutes*, p. 289.

13 Ed. II, § 7.

Cal. Close Rolls, p. 358.

given to these petitions, the Irish, excepting particular individuals, were denied English Law until the reign of James I. See Sir John Davies: *Ireland before 1603* (Morley's edition, pp. 268–75). He contrasts Edward I's Welsh policy.

[1] MS. torn. Probably the words *once or twice*, as in the Ordinances of 1311, should be understood.

1320 was probably not enforced. There is record of only four Parliaments between 1320 and 1327, and legislation is extant for only four Parliaments during the thirty-eight years of Edward III's reign. The dissolution, prorogation and duration of Parliament were not subjects of any special legislation and were probably entirely under the control of Executive. The duration of a parliamentary session in Edward II's reign appears to have varied from four days to a month.[1]

As information about early Irish Parliaments is drawn mainly from isolated statutes it is difficult to form conclusions about their procedure. The Justiciar probably acted as President and explained to Parliament the wishes of the King and the purpose for which it had been summoned. He acted in close co-operation with the Council, and on at least one occasion in Edward II's reign withdrew to confer in secret with Councillors while Parliament was in session. It seems unlikely that there was any division into houses, as there is nothing in the evidence to suggest it. Evidence from later reigns goes to show that the estates continued to sit together at least until the reign of Henry VI. For example, in the following complaint made against the Lord-Lieutenant of Ireland in 1374 it is mentioned incidentally that Parliament met in a single chamber : " At the Parliament at Ballydoyle held [in 1374] . . . there was not in the place any building, but a small chapel, wherein the parliament was held, with the intention that, as the Commons of Ireland, who ought to be called to the said parliament, could not find lodging or other necessary accommodation there during their stay, they might the more quickly grant the subsidy required of the prelates, magnates and commons . . . and, although the said commons excused themselves for two or three days from granting a subsidy, yet, being worn out by the tedious stay in that inconvenient place [at length] they granted to the King £2,000." In the

Rot. Close, 45 Ed. III.

[1] The Kilkenny Parliament of 1310 sat from February 8 to February 12 ; the Dublin Parliament of 1320 sat from March 30 to April 30.

same document complaint is made that the knights elected by the county of Meath had at the Parliament of the previous year been forced by threat of imprisonment to agree to grant a subsidy. No mention of privilege is made in the statement of grievances. It seems probable that the privileges of the House of Commons, the Speaker and the division of the estates appeared together for the first time in 1449, when they were formally demanded by the Commons in a Protestation recorded on the Statute Roll. Irish privilege was put on a statutory basis in 1463. Degrees of precedence among those summoned by special writ seem to have been determined in the fourteenth century, perhaps as early as the reign of Edward II.

Stat. Roll, Hen. VI, pp. 110 *sq.* *Stat. Roll, Ed. IV*, pp. 142 *sq.* 3 Ed. IV, 47.

The Kilkenny Parliament of 1310 was distinguished by an important deviation from normal procedure. When Parliament had assembled the Justiciar and Council presented on behalf of the King a request (*petitionem*) which ran as follows:

3 Ed. II. *Early Statutes*, pp. 262 *sq.*

"Whereas all things saleable are become so excessively increased in price . . . our lord the King, by his Justiciar and Council here present, prays the prelates, earls and barons, and other good men of the community who are come by summons, that . . . they will . . . see into the defaults, and on this and on other things . . . afford such counsel, remedy and aid as may be for the honour of God and of Holy Church, and to the common profit of the King and of the people of Ireland. And forasmuch as it seems a cumbrous proceeding (*acombrose chose*) that all those who have come by summons should be ordainers of these things, our lord, by his Justiciar and Council . . . prays that all the assembly choose two prelates with two other men of note, and that these four choose of themselves and others the wisest that are here, sixteen who best know how, are willing and able, by the assent of the community aforesaid, to afford counsel, aid and remedy [in conjunction] with the King's Council."

In accordance with the royal request Parliament elected (*eligerunt*) five persons, three prelates and two laymen, who

chose eleven others to make up their number to sixteen.[1] This Council, " being specially sworn for this purpose, treated together with deliberation, and . . . with the assent and consent of the Justiciar and Council . . . and of the community . . . ordained and . . . enacted certain ordinances . . ." The delegation of authority to an inner council of representatives suggests a parallel to Scottish practice. From the habit begun in 1367, of appointing commissions composed of persons " elected by the Estates to hold the Parliament," the institution known as the Lords of the Articles developed. In Ireland the use of a committee of Parliament was apparently an experiment which was not tried again. Its adoption would, as in Scotland, have given too much power to the magnates and thus defeated the main purpose of Irish Parliaments.

V. R. S. Rait: *The Parliaments of Scotland*, ch. IV.

A more characteristic irregularity of procedure occurred at the Dublin Parliament of 1324. The Parliament had been summoned primarily to reconcile contending factions, and its legislation took the form of an indenture or agreement between the King and certain lords of Parliament. It is clearly stated that the enactment has the assent of " the prelates, earls and barons and all the common people in full parliament," but the whole responsibility of its execution is undertaken by seventeen " earls, barons and other magnates of lineage ", (*grauntz de Lynnage*). They pledge themselves that until the next Parliament they will take and cause to be taken the felons, robbers and thieves of their own family and surname (*de lour braunche e sournoun*) and all other felons and notorious evil-doers who shall be found and received in their lordships. The royal seal was affixed to the part of the indenture remaining with the magnates and their seventeen seals were affixed to the part remaining with the King.

Early Statutes, pp. 306 *sq.*

To the same Parliament of 1324 belongs the only surviving account of an Irish parliamentary debate in the reign of Edward II. It occurs in a contemporary narrative of

[1] No less than six members of the Committee were commoners, not summoned by special writ.

proceedings against Dame Alice Kyteler, prosecuted for sorcery by Richard Ledrede, Bishop of Ossory.[1] Internal evidence makes it almost certain that the narrative was written by the bishop himself. The Kyteler case was the *cause célèbre* of fourteenth-century Ireland and involved many of the most important personages in Leinster and Munster. In 1324 the bishop of Ossory, an English friar, brought accusations of witchcraft and sorcery against Dame Alice Kyteler of Kilkenny, the cathedral city of his diocese. The lady had then been four times married, had outlived three of her husbands and was known by her maiden name of Kyteler.[2] Her last two husbands, Richard de Valle and John le Power, were both important enough to be summoned by special writ to the Parliament of 1310 and were members of great families in Tipperary and Waterford. It was alleged that, with the help of a certain demon called Robin Fitz Art, she had caused the death of the first three husbands, after inducing them to bequeath all their goods to her and her first-born son, William Outlaw,[3] and that the fourth husband was already wasting to death when the sorcery of his wife was discovered. William Outlaw, the son, was also accused of aiding and favouring his mother and her accomplices, but he was able to call upon powerful persons to protect him. Roger Outlaw, Prior of the Hospitallers house at Kilmainham and Chancellor of Ireland, was a near relative, and Arnold le Poer, Seneschal of the liberty of Kilkenny, was a close ally. Arnold le Poer was a leader of the Despenser faction in Ireland;[4] he was

Proceedings, p. 60; *Early Statutes*, p. 258.

Proceedings, pp. 2, 3.

[1] Edited by Thomas Wright and published by the Camden Society in 1843 under the title of *Proceedings against Dame Alice Kyteler for Sorcery*.

[2] Kyteler was a Flemish name. A William le Kyteler of Ypres was trading in Ireland in 1277 (*Cal. Pat. Roll.* 5 Ed. I, p. 223). There was a *villa Flamingorum* at this time in Kilkenny. *V.* Orpen: *Ireland under the Normans*, Vol. IV, p. 218, n. 2.

[3] Her first two husbands were Will. Outlaw, a wealthy banker and moneylender in Kilkenny, and Adam le Blund, who probably held estates in Offaly, now King's County.

[4] At this time the castle and liberty of Kilkenny were held by Hugh

supported by the De Burghs of Ulster and Connaught and opposed by the Butlers, the Geraldines, and the Berminghams. In this way the Kyteler case became part of the general quarrel between the Despenser party and that of Roger Mortimer.[1] The seneschal of Kilkenny refused to lend the bishop the support of the secular arm to punish the heretics, and even went so far as to cause the bishop to be imprisoned. In the spring of 1324 the bishop was cited to appear before the court at Dublin, (probably the court of his metropolitan), to answer the appeal of Dame Alice against the charges of heresy and sorcery brought against her. While the case was pending the bishop was also cited to appear before Parliament: he seems to have disregarded the formal summons to attend with the prelates from fear of being ambushed by his enemies on the way. In order to reach Dublin he was forced to travel by night and hide by day in woods and marshy places. When he arrived he found that the whole Curia Regis and even the archbishop's court were hostile to him. Arnold le Poer was cleverly justifying his incarceration of the bishop by disputing his authority to demand the support of the secular arm. The claim was based on the decretal of Boniface VIII, *Ut inquisitionis negotium*, the decretal by means of which William Sautre was burnt in 1401.[2] Le Poer hoped to confute his adversary of working on the anti-clerical and nationalist prejudices of Parliament. What followed is best described in the bishop's own words, though, no doubt, he has pruned down the speeches of his opponents and made the best of his own eloquence.

Proceedings, p. 15.

Ibid., p. 16.

Ibid., p. 17.

C. 18 in Sexto, 5.2.

Despenser the younger, in the right of his wife, Eleanor, eldest daughter and one of the co-heirs of the late Earl of Gloucester (Orpen, IV, p. 223).

[1] Roger Mortimer of Wigmore had been Justiciar of Ireland from 1316–18 and from 1319–21. Through his great-grandmother, one of the Marshal heiresses, he inherited the honour of Dunamase (modern Queen's County), and by marriage with Joan de Geneville he was lord of the liberty of Trim (Meath) (Orpen, III, pp. 103–4).

[2] *Vide* Pollock and Maitland, II, 550, and Maitland: *Canon Law*, pp. 176–7.

"... While the Justiciar and King's Council held private session apart (*privato separatim existentibus*) the prelates, earls, barons and other magnates of Ireland were in the hall.[1] To them came Lord Arnold [Le Poer], bringing in his train ... William Outlaw and carrying in his hand a written statement (*cedula*) as if on behalf of the King's Council. He brought forward three propositions relative to the case to be discussed in Parliament; the first of them being that it was the will of the King that the Church should enjoy her liberties as set down in Magna Carta. Whereupon Lord Arnold at once added a statement on his own account. 'Observe,' he said, 'the King says not any liberties whatsoever, but such as are comprehended in Magna Carta; for if any straggler (*trutannus*) from England or elsewhere procures a bull or privilege from the papal curia, we are not bound to obey it unless it be issued to us under the royal seal. I say this because you well know that in the land of Ireland no heretics were ever found, but it was wont to be called the island of saints. Now, forsooth, comes some foreigner from England and says we are all heretics and excommunicate, and brings up to prove it some papal constitutions that none of us have ever heard of before now; and because the disgrace of this country touches every one of us it is the duty of all of you to take part against him.' Thereupon the other bishops began to urge the bishop of Ossory to answer somewhat to his opponent and not suffer him to flaunt his victory over the cause of faith before such a multitude. Then spoke the bishop of Ossory in the presence of them all. 'Reverend fathers and lords,' he said, 'though many arguments have been put before you by this noble and powerful lord, all are not borne out by the facts; for the privileges of the Church are indeed many and are not readily to be comprehended once for all in one little charter (*parva cartula*). It is beyond all question that even as the kings and princes of this world dispose as they will of things temporal (*de suis temporalibus*) and establish laws and statutes, so our Lord the Pope, who is the Vicar of Christ, has it in his power to dispose and decree in things spiritual, and above all in the matter of faith. ... And his third point, that we

Proceedings, pp. 17 *sq.*

[1] This hall was probably the Great Hall of Dublin Castle, which had been roofed and had its gutters repaired sometime between 1299 and 1302 (*Pipe Roll* (Ireland), 1 Ed. II. Report 39 of the Deputy Keeper, p. 25). The Council may have been sitting in the "chamber of the justiciar" referred to in the same account.

declare you all heretics and excommunicate to the disgrace of your country and yourselves, is not, with all reverence to so great a man and so mighty a power, true ; for that ill men should be found among the good bringeth no disgrace upon the good, unless the good foster and protect them in their malice. . . . And we in our own diocese, amidst many good and upright men, have found a nest of the devil, fouler than hath ever been in the kingdom and dominion of the King of England ; which when we set ourselves to purge . . . it fell to our lot to suffer calamities unheard of in modern times. For when, having in mind the power and wealth of our opponents, we came in full pontificals, bearing in our hands the body of Christ and with a great following of priests and religious, to that place where you sat, my Lord Arnold, to implore your help against the aforenamed heretics . . . you not only omitted all reverence to your creator but with insult and clamour drove out from your judgment hall [1] (*aulam judicialem*) the Lord and Master of us all, and even your father the bishop. . . . For which cause know that you have brought on your head the sentence of Canon Law ; and do not think that the bishop sent you by our Lord the most holy Vicar of Christ and nurtured under the wings of the Holy Roman Church, is such a one as to fear in the cause of faith your power, your threats, your terrors, but rather, if need be, is prepared to suffer, by the help of God, not only prison but death itself. We leave it to your judgment, my lords and prelates, whether these be the deeds and tokens of the faithful or of others.'

"This spoken, Lord Arnold rose in fierce anger and made answer to the bishop. 'Full, full will be the reckoning that is coming to you wherever you go.' The bishop replied : 'Come against me with your hirelings when you will, you shall find one ready to counter you with quiet and joyful mind on behalf of the faith of Christ.' After which Lord Arnold with his following and the aforesaid William, withdrew from the hall, the rest of the Parliament remaining in session.

"Now though many, indeed one might say all, encouraged the bishop to stand fast in the cause of faith, yet there was not one among them with courage to say so openly. . . . The bishop of Ossory approached the bishops and other prelates in

[1] The Court of the seneschal of the liberty of Kilkenny. Cf. *Proceedings*, p. 13, . . . *senescallus . . . in civitate Kilkenniae in aula ejusdem judiciali sua teneret placita.*

Parliament . . . asking their counsel and help. . . . The Vicar General [of the church of Dublin] advised that, as Lord Arnold . . . was a man of great power in Ireland, it would be wise first to make peace between him and the bishop, and then it would be possible to deal more freely with the ecclesiastical question . . . "

This advice was accepted and a committee of five persons, all ecclesiastics, was appointed to arbitrate between the bishop and Lord Arnold.[1] As a result of their negotiations Lord Arnold asked the bishop's pardon for all injuries done to him. " Peace was made between them and they embraced each other in the presence of the prelates and all the members of the King's Council." *Proceedings*, p. 20.

It seems probable that the bishop's account of the debate can be relied on as evidence for political and parliamentary conditions in the reign of Edward II. He describes the Justiciar and Council consulting apart while Parliament was sitting and intervening only to preside over the formal reconciliation of the chief opponents. He makes no special mention of the commons, though they were certainly present ; he obviously considers his grievance as an affair for the prelates and the magnates. He also describes a separate consultation of the clergy in order to formulate a policy for the defence of the liberties of the Church. His description of the committee of arbitration and the formal reconciliation that followed throws light on the way in which the indenture to maintain the peace was arrived at by the same Parliament. *Early Statutes*, p. 307.

The most important function of the Irish Parliament seems to have consisted of arbitration of this kind. The Parliament of Kildare (1309) made peace between Arnold le Poer and the relatives of John de Boneville, whom he had slain. The Parliament of Kilkenny (1316) is described by one chronicler as " allaying great strife that had arisen among certain magnates of Ireland." The Kilmainham Parliament of 1317 released the Earl of Ulster and nego- *Ann. S.M.*, p. 339. *Ibid.*, p. 294. *Ibid.*, pp. 302, 354–5.

[1] The committee consisted of the dean of St. Patrick's Cathedral, Dublin, and the bishops of Ferns, Kildare, Emly, and Lismore.

tiated peace between him and his chief enemies. In 1324 there was an attempt to reconcile the contending factions of Despenser and Mortimer. The attempt failed as the Despenser faction became more and more confident of their superior strength. In 1325 writs were issued to Maurice Fitz Thomas and Arnold le Poer commanding them to desist from gathering together men-at-arms and foot-soldiers to attack each other. A year later writs were issued to four sheriffs[1] and five magnates forbidding rebellious conventions and conspiracies. In 1327 the two factions were engaged in open war. The chroniclers give as a cause that Arnold le Poer used "monstrous language" (*enormia verba*) about Maurice Fitz Thomas,[2] calling him a *Rymour* or mischief-making poet. The real cause was the general struggle between the Mortimer and Despenser factions. The Kilkenny Parliament of 1327 made another attempt to end the war, but it continued until the death of Mortimer in 1330.[3]

Cal. Cl. Roll, Ireland, 18 Ed. II, Nos. 94 and 100.

Cal. Pat. Roll, Ireland, 20 Ed. II, No. 520–1.

Ann. S.M., p. 364.

Ibid., p. 364.

The reign of Edward II was remarkable for a persistent effort to solve the problems of Irish disorder by means of Parliament. The failure of the experiment was due much less to Parliament itself than to external causes. The geographical peculiarities of the colony, the weakness of the Executive in both England and Ireland, the Scottish wars and the Irish rally against the colonists, combined to render Parliament impotent and to destroy confidence in all political institutions. The effort was continued half-heartedly during the reigns of Edward III and Richard II, but Parliament steadily declined in size and importance, In the fifteenth century it became little more than a law court for a steadily shrinking number of colonists. Reconquest by the Tudors was necessary before any effective central government could be established.

[1] The sheriffs of Cork, Limerick, Tipperary, and Waterford.

[2] Maurice Fitz Thomas was the head of the Geraldines.

[3] Baldwin (King's Council, p. 473) prints an order in Council to suppress the feud between the Geraldines and the Poers, June 24, 1328. Cf. *Rot. Parl.*, II, 53, 1330.

APPENDIX I

List of Irish Parliamenta in Edward II's Reign

Regnal Year.	Date.	Place.	Authorities.
1. 2 Ed. II	1309	Kildare	Ann. Dowling, sub anno 1310. *Ann. S. Mary's*, Dublin, pp. 291, 339.
2. 3 Ed. II	1310 From Feb. 9	Kilkenny	*Early Statutes*, pp. 258 *sq.* Ann. Dowling, s.a. 1311. *Ann. S. Mary's*, p. 294.
3. 9 Ed. II	July, 1315	Kilkenny	Ann. Clynn, s.a. 1315. *Ann. S. Mary's*, p. 349.
4. 11 Ed. II	August, 1316	Kilkenny	*Ann. S. Mary's*, p. 300. *Cal. Cl. Rolls, Eng.*, 1313–18, pp. 358–9.
5. 11 Ed. II	1317	Kilkenny	*Ann. S. Mary's*, p. 301.
6. 11 Ed. II	June, 1317	Dublin (Kilmainham)	*Ann. S. Mary's*, pp. 302, 354–5. *Cal. Cl. Rolls, Eng.*, 1313–18, p. 476.
7. 13 Ed. II	Mar. 30–April 30, 1320	Dublin	*Early Statutes*, pp. 28 *sq.*, 588. *Cal. Pat. Roll*, 13 Ed. II (Ireland), No. 47.
8. 17 Ed. II	April 15–May 15, 1324	Dublin	*Early Statutes*, pp. 306 *sq.* *Proceedings against Alice Kyteler*, pp. 13–22.
9. 18–19 Ed. II	June 24–July 11, 1325	Kilkenny	*Early Statutes*, pp. 311 *sq.*
10. 19 Ed. II	June, 1326	Kilkenny	*Early Statutes*, p. 588. *Ann. S. Mary's*, p. 364.
11. 20 Ed. II	April, 1327	Kilkenny	*Ann. S. Mary's*, p. 365.

APPENDIX II

Sub-Tenants summoned to the Parliament of Kilkenny in 1310

Walter de Valle. Held Moneday of Jas. Butler, Earl of Ormond, in 1339. Inq. Post Mortem, 1339.

*Richard de Valle. Sheriff of Tipperary, was perhaps a Butler tenant. *Pipe Roll*, 16 *Edward II*, R. 42, Deputy Keeper, p. 42.

Jordan de Exeter II (Senior). Held lands in Connaught from Richard de Burgh, Earl of Ulster. *V.* Orpen III, pp. 197, 211.

Jordan de Exeter III (Junior). Son of Jordan II.

Matthew de Caunteton. Held Lythlainee in Wexford from Roger le Bigod. Inq. Post Mortem, 1306.

Simon de Genevile. Held lands in Meath from Roger Mortimer of Wigmore. *Gormanstown Register*, pp. 171–4.

Walter de Lacy. Held manors in Meath from Roger Mortimer. Orpen, III, 174. *Gormanstown Register*, p. 11.

Hugh de Lacy. Held manors in Meath from Roger Mortimer. *Gormanstown Register*, pp. 53 *sq.*

Richard de Tuit. Held Killallon, Meath, from Robert Mortimer. *Gormanstown Register*, p. 11.

Walter de Cusack. Held lands in Meath from Roger Mortimer. *Gormanstown Register*, p. 28.

John de Boneville. Held Typercathan in Oboy (Leix) from Roger le Bigod. Inq. Post Mortem, 1306.

Richard Tuit. Held Sunnagh, West Meath, from Roger Mortimer. *Gormanstown Register*, p. 11.

Baldwin le Flemyng. Held Slane, Meath, from Roger Mortimer. *Stat. Roll*, p. 37. 2 Ed. IV, cap. 15.

Richard Taaf. Did suit of court at Trim in 1306. Tenant of Roger Mortimer. *Gormanstown Register*, p. 169.

Thomas de Mandeville. Ulster tenant of Richard de Burgh. Orpen, IV, 178.

Hugh Byset. Ulster tenant of Richard de Burgh. Orpen, IV, 151–2.

John Byset. Ulster tenant of Richard de Burgh. Orpen, IV, 163.

Alan Fitz Warin. Ulster tenant of Richard de Burgh. Orpen, IV, 209.

*Philip de Mandeville. Ulster tenant of Richard de Burgh.

William le Fitz Warin. Ulster tenant of Richard de Burgh. Seneschal of Ulster, 1272. Orpen, IV, p. 9.

*Walter de Sey. Probably held land in the Nynch, Meath, and tenant of Roger de Mortimer. *Gormanstown Register*, p. 31.

Nicholas le Blund. Held Rathregan, Meath, from Roger Mortimer. *Gormanstown Register*, p. 139. Lynch: *Feudal Dignities*, p. 268.

John de Mandeville. Ulster tenant of Richard de Burgh. *Cal. Pat. and Cl. Rolls* (Ireland), 1326, p. 7.

*Adam de Logan. Probably Ulster tenant of Richard de Burgh as the family held lands in Antrim.

Thomas le Tailleur. Held lands in Meath from Roger Mortimer. *Gormanstown Register*, pp. 96–7.

*Hugh Byset. Ulster tenant of Richard de Burgh.[1]

*Peter de Mandeville. Ulster tenant of Richard de Burgh.

Roger de Holywood. Ulster tenant of Richard de Burgh. Holywood is in County Down. Roger was killed in 1315. *Annals S. Mary*, p. 346.

Michael de Kylkenan. Ulster tenant of Richard de Burgh. Kylkenan is in Island Magee (Antrim).

Hugh of Ballydonel. Ulster tenant of Richard de Burgh. Ballydonel is in Down.

John, son of Alan de Logan. Ulster tenant of Richard de Burgh. Orpen, IV, 184, 245.

*Richard le Savage. Probably an Ulster tenant, as the family held lands in Antrim.

*William Byset. Ulster tenant.

*Hubert Byset. Ulster tenant.

* Marks doubtful examples, of which there are nine. Counting these nine, thirty-four persons summoned to the Parliament of 1310 can be proved to be vassals of Anglo-Irish tenants-in-chief. Probably if all the tenements of those cited could be identified the proportion of sub-tenants to tenants-in-chief would be still larger.

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[1] The Bysets held lands in the Glens of Antrim.

APPENDIX III

Bishoprics *inter Anglicos* from 1303–88

The temporalities of the following archbishoprics and bishoprics were seized into the King's hand during vacancy:

Deputy Keeper's Report.	Page.	Diocese.	Pipe Roll.	Date.	
39	23	Armagh	1 Ed. II	1306–8	Archbishoprics
39	62	Dublin	12 Ed. II	1314	
42	14	Cashel	12 Ed. II	1314	
39	42	Tuam	6 Ed. II	1311	
39	29	Leighlin	3 Ed. II	1307–9	
39	43	Ferns	6 Ed. II	1311–13	
42	19	Ossory	12 Ed. II	1317	
44	54	Kildare	8 Ed. III	1334	
42	57	Clonfert	18 Ed. II	1323–6	
39	29	Emly	3 Ed. II	1307–9	
45	48	Waterford	11 Ed. III	1338	
39	29	Lismore	3 Ed. II	1307–9	
35	45	Cloyne	16 Ed. II	1323	
35	35	Cork	15 Ed. II	1321–3	
44	57	Ross	7 Ed. III	1337	
39	43	Achonry	6 Ed. II	1311–13	
39	43	Limerick	6 Ed. II	1311–13	
42	17	Killaloe	12 Ed. II	1317–20	
42	58	Armagh	18 Ed. II	1323–26	
35	32–3	Meath	15 Ed. II	1322	

Connor. Restored to temporalities in 1324. Ware and Harris.

Down. Restored to temporalities in 1305 and 1329. *Lib. Mun.* II, 16.

Clonmacnoise. Restored to temporalities in 1303. *Lib. Mun.* II, 13.

Bishoprics *inter Hibernicos* from 1309–27

The temporalities of the following bishoprics were not seized into the King's hand during vacancy:

Connaught	Killala. Vacant, 1309. *Cal. Pap. Reg.*, p. 59.
	Killmacduagh. Vacant, c. 1323. *Cal. Pap. Reg.*, p. 228.
	Elphin. Vacant, 1310 and 1313. *Cal. Pap. Reg.*, pp. 70, 108.
Munster	Ardfert. Vacant, 1331. *Cal. Pap. Reg.*, p. 356.
	Killfenora. Vacant, 1323. *Lib. Mun.*, Vol. II, Part 5, p. 79.
Ulster	Dromore. Vacant, 1309. *Lib. Mun.* II, p. 25.
	Derry. Vacant, 1316 & 1319. *Lib. Mun.* II, p. 29.
	Raphoe. Vacant, 1319. *Lib. Mun.* II, p. 26.
	Kilmore. Vacant, 1307 & 1314. *Lib. Mun.* II, p. 20.
	Clogher. Vacant, c. 1322. *Cal. Pap. Reg.*, p. 219.

APPENDIX IV

Sources of Irish Revenue under Edward II

The Summary is based mainly on the calendars of Pipe Rolls published in Reports 39 and 42 of the Deputy Keeper of Irish Records. A few additions from other authorities are added.

1. Escheats, wardships and temporalities of vacant sees and religious houses.
2. Accounts rendered by sheriffs from thirteen counties. The number varies from six to two per annum.
3. Accounts rendered by seneschals from six liberties. The number varies from none to two per annum.
4. Accounts rendered by officers of seven cities and boroughs. The number varies from one to four per annum.
5. Revenue drawn from thirteen royal manors. The number varies from one to eight per annum.
6. Great New Custom, called in England *Antiqua Custuma*. It was granted to Edward I by Parliament at Westminster in 1275. Its collection in Ireland was a considerable addition to the revenue. Accounts were rendered of it four times in Edward II's reign. In 1325–6, £695 2*s.* 4½*d.* was paid in from Dublin, Drogheda, Ross, Youghal, Wexford, and Cork (R. 42, p. 78).
7. Little New Custom, called in England *Parva* or *Nova Custuma*, a tax on foreign merchants first levied in 1303. Accounts for it were rendered once in Edward II's reign

(1325–6) from Dublin, Youghal, and Drogheda. The total amounted to £21 12*s.* 2¾*d.* (R. 42, p. 78).

8. Twentieth levied on the clergy by permission of the Pope. Accounts rendered from the dioceses of Ferns, Ossory, and Cloyne, and the prebends of S. Patrick's, Dublin, in the year 1325–6 (R. 42, p. 76). The total was £141 4*s.* 8¼*d.*
9. A forced loan was demanded from certain prelates and commoners in 1322. *Cal. Cl. Roll, Ed. II*, Ap. 3, 1322, p. 529.

AN EPISODE IN ANGLO-RUSSIAN RELATIONS DURING THE WAR OF THE AUSTRIAN SUCCESSION

By Sir Richard Lodge, M.A., Litt.D., LL.D.

Read 22 April, 1926

[At a meeting of the Royal Historical Society on 22 April, 1926, I gave a summary of a paper entitled "A Derelict Diplomatist in the Eighteenth Century," in which I narrated the misadventures of a certain Friedrich Lorentz, or Frederick Laurence (as he was called in English State Papers), a born subject of the Elector of Hanover, who was employed by our Foreign Office in a rather indeterminate capacity, first at Berlin and later at Dresden. Lord Hyndford, ignorant, like so many of our diplomatists, of the German language, had employed him as a private secretary to deal with German documents. In the autumn of 1744, when Frederick II re-entered the war against Maria Theresa, Hyndford was transferred from Berlin to St. Petersburg, and was allowed by Carteret to leave the representation of Great Britain, with the necessary cyphers, in the hands of Laurence. In view of public and parliamentary opinion it was rather reckless to entrust such responsibility to a Hanoverian, and it was to disguise this that Hyndford laid stress upon the English form and sound that could be given to the name. Laurence himself was exultant at his unexpected elevation, and did his best to earn by zeal and industry the approval of his employers. But from the first he was in a false position, and he was soon involved in pecuniary difficulties, as his salary, at first £200 and later £300 a year, was irregularly paid, and was anyhow inadequate to enable him to meet the expenses of his offices and to support a wife and four children. These money troubles became more serious and humiliating after his transfer by Chesterfield from Berlin to Dresden. At Dresden he was reduced almost to starvation, was involved in a degrading conflict with a landlord who tried to evict him by force from his house, and suffered from the unconcealed dis-

approval and the contemptuous charity of Sir Charles Hanbury Williams, the official representative of Great Britain at the Saxon Court. The whole story is too long for insertion in this volume, and the following chapter deals only with a quarrel in which Laurence was involved at Berlin with Voronzov, the Russian Vice-Chancellor. It was this quarrel which ruined Laurence's career. By it he attracted the attention and incurred the displeasure of Frederick the Great. Frederick demanded his removal from Berlin, and Chesterfield gratified the Prussian King by sending the unfortunate Hanoverian to Dresden. From that moment his troubles began. I have left the chapter as it was originally written. My chief authorities are the Foreign State Papers (Prussia and Poland) in the Record Office, the Hyndford Papers in the British Museum, and also some additional papers of Lord Hyndford, which remain in the possession of the Carmichael family.—R. L.]

In 1746 Laurence became involved in a serious political scrape, which proved to be a disastrous turning-point in his career, and is perhaps the most important episode in its course. To understand its significance, one must have some idea of the prominence of Russia in Europe during the whole course of the Austrian Succession War. It is true that Russia never became an actual belligerent, and on that account was excluded from the ultimate negotiations at Aix-la-Chapelle. It is also true that Russia intervened as an auxiliary only at the very last minute, and too late to exert any but a very indirect influence on the peace settlement. But all through the war the possibility of Russian intervention loomed very large in the eyes of the principal belligerents, and the dread or the hope of its assistance being given to the cause of Maria Theresa exerted a very sensible influence on the tangled diplomacy which continued throughout the military operations. The result was that St. Petersburg became a centre of diplomatic intrigue. At the Russian court there were always two contending parties ; the one inclined to favour Prussia and France, the other eager for the success of Austria and the maritime powers. The leader of the latter party was the

Chancellor, Alexis Bestuzhev, who was so resolute and consistent a partisan that he was generally suspected of being in English pay.[1] At all events the British ambassador was his intimate associate, and Lord Hyndford in his dispatches always disguises the Chancellor's identity as "my friend" or "our friend." Their object was to gain over the Tsaritsa Elizabeth, an indolent ruler, grateful to the industrious Bestuzhev for saving her labour, but not willing to allow him a free hand in the conduct of affairs.

There were many things which favoured a Russian alliance with Austria. Since 1726 the two states had been bound together by treaty ties, and they had co-operated in the question of the Polish Succession and in the subsequent Turkish war. Elizabeth had no love for Prussia and still less for the Prussian King, and she had been alienated from France, first by French complicity with Sweden, and later by the folly of La Chétardie. But there were counter-influences. The revolution which placed Elizabeth on the throne had been largely due to France and to Frenchmen, and one of its promoters, the surgeon Lestock, still preserved much of his influence at St. Petersburg, while many

[1] This suspicion has been generally accepted by historians, largely owing to the persistent assertions of Frederick the Great, who was only too willing to offer bribes to the Roman Chancellor, but held that he had no chance against English profusion (*Pol. Corr.*, V, pp. 294, 416). The Hyndford Papers throw some light upon the question. Hyndford informed Harrington that Sir Cyril Wych had authority to offer a present to Bestuzhev, but had never drawn any money for the purpose (Add. MSS., 11,381, fo. 295). He himself urged on Chesterfield the necessity of securing the firm support of the Chancellor, especially during the intricate negotiations of 1747 as to a subsidy in return for Russian auxiliary troops. Bestuzhev himself asked for a loan of £10,000 (without interest) on a mortgage of his house. The English Exchequer would not rise to this sum, but at last Chesterfield authorised the ambassador to offer £5,000 on the signing of the Convention (Chesterfield to Hyndford, 28 April, 1747, in Add. MSS., 11,383, fo. 339). Hyndford replied that the Chancellor had scruples about this, that any present on the signing of a Convention must be given to Voronzov as well as to himself, and that if any extra gift be made to him, it must take the form of a gift of plate or a snuff-box set in diamonds, but not money, the acceptance of which would ruin him. What he had asked for was a loan and not a gift (Hyndford to Chesterfield, secret, 2 June, 1747, in *Ibid.*, fo. 428).

of the Russian nobles were attached to France and detested the ascendancy of the Chancellor. Elizabeth was notoriously apt to be guided by personal motives and by the influence of her intimate companions. The Prussian envoy, Mardefeld, one of Frederick's most trusted agents, was as active on one side as Hyndford was on the other. At one time Mardefeld had seemed to have the upper hand when Peter of Holstein, the recognised heir of the Tsaritsa, had married Catharine, the young lady from Anhalt-Zerbst, whose mother was practically a second Prussian agent at the Russian court, and still more when Frederick's sister was married to another Holstein prince, whom Elizabeth had forced the Swedes to accept as successor to the reigning King by the Treaty of Abo. These two marriages seemed for a moment to have secured Frederick against danger from the power which he dreaded more than any other. But Bestuzhev's consummate skill in detecting and betraying La Chétardie's correspondence had wrecked Mardefeld's scheme for the time, and the latter had to painfully rebuild the shattered edifice. His chief reliance was upon Lestock and upon Bestuzhev's rival in the ministry, the Vice-Chancellor Voronzov, a younger and less experienced politician, who had married one of the Tsaritsa's favourites and had many supporters among the Russian nobles. In Mardefeld's correspondence with Frederick Voronzov is *l'ami important* and Lestock *l'ami intrépide*.

The contest between rival politicians and diplomatists at St. Petersburg became acute during the second Silesian war. When the Treaty of Warsaw was concluded in January, 1745, great efforts were made by Austria and the maritime powers to induce Russia to join in the campaign against Frederick. As long as the war was waged in Silesia or on the frontiers of Bohemia, these efforts were not rewarded with success, but when Frederick began to threaten Saxony, it appeared likely that Elizabeth would not allow the humiliation of the prince whom Russia had seated upon the throne of Poland. The anti-Prussian policy of Bestuz-

hev was on the verge of adoption, and Russian soldiers began to talk, not only of the restoration of Silesia to Austria, but of the conquest of East Prussia, which might either be retained by Russia or added to Poland. At this juncture, however, England threw over the Warsaw policy, and on 26 August, 1745, Harrington signed the Convention of Hanover, by which England was pledged to strive for the restoration of the peace of Breslau. This, said Elizabeth, was exactly what Voronzov had foretold, that England would make a separate peace with Prussia and leave her allies in the lurch. Her ardour was sensibly cooled, just as she had made up her mind to aid in the reconquest of Silesia, or at any rate to insist upon the compensation of Saxony for the Prussian trespass in the autumn of 1744.[1] It was at this critical moment that Laurence came into contact with one of the great problems of European politics.

On 14 September, 1745, Hyndford wrote to Harrington that Voronzov had received leave of absence in order to visit European courts and so fit himself for future promotion.[2] On 26 October, when everybody was on tenterhooks as to whether Frederick would venture a direct attack upon Saxony, Laurence reported that the Russian Vice-Chancellor, with his wife and two children, had arrived from Saxony in Prussia, that he had paid a visit to Potsdam, and had thence come on to Berlin. It is not likely that Laurence knew much about domestic politics at St. Petersburg, but he was fully alive to the fact that Russia might exert a decisive influence on the course of current events. If the Tsaritsa would promise active support to Augustus, Frederick might hesitate to risk a rupture with his formidable neighbour. So Laurence obtained an interview

[1] Hyndford to Harrington, 22 October, 1745, in Add. MSS., 11,380, fo. 141.

[2] Finckenstein reported from Stockholm on 24 Sept. 1745, the fear that the Chancellor would profit by Voronzov's absence to bring the Tsaritsa to accept his system. Frederick replied on 11 October that he would as soon have news from Ispahan of the diet at Frankfort as news about Russia from Stockholm (*Pol. Corr.*, IV, 308).

with Voronzov, and urged the value and the necessity of Russian support to the cause of the allies. Voronzov replied that England at any rate did not need support, as she had made the Convention of Hanover with Frederick. Laurence, who knew nothing of the Convention, denied its existence, and evidently suspected that the Russian minister was inclining to the Prussian side. His suspicions were further increased when he discovered that the visitors had been given the unusual boon of free post-horses within the Prussian borders. Full of importance, he wrote to Harrington that he would keep a watchful eye on the Russian Vice-Chancellor. His curiosity was rewarded. On the 5th December one of the Secretaries of the Russian embassy told Laurence that at the dinner-table of Count Haake, the governor of Berlin, in the presence of a Russian brigadier, conversation had turned upon the gratitude due from Prussia to Voronzov for having revealed to Frederick the Saxon plan of an invasion of Brandenburg, which had served as a pretext and justification for the Prussian invasion of Saxony. This rumour, says Laurence (though he made no report of it to Whitehall at the time), was widely circulated in Berlin, and he himself was incautious enough to talk about it to Count Czernyshev, the Russian envoy at the Prussian court, with whom he had established confidential relations, and with whom he dined on 5 December. Czernyshev, whose father and mother had great influence with the Tsaritsa, was a friend and partisan of Voronzov, who had by this time quitted Berlin and gone on to Italy. He at once instituted enquiries, obtained a denial of the whole story from Haake and the Russian brigadier, and wrote at full length to the Vice-Chancellor. Voronzov was furious, as such a charge might seriously damage his credit at St. Petersburg, and wrote to Czernyshev from Naples to say that in his belief Laurence had invented the accusation.

Meanwhile some rumour of the story had reached the Russian capital, where Hyndford and Chancellor Bestuzhev

were only too eager to welcome anything which might discredit their rival. A Russian chamberlain, Choglokov, was about to start for Vienna to offer congratulation to the Emperor and Maria Theresa on the former's election, and he was instructed to visit Berlin and make enquiries. Hyndford gave him letters of introduction to Villiers and Laurence at Berlin, and to Sir Thomas Robinson at Vienna. To Laurence he especially wrote that he might deal in complete confidence with the Russian chamberlain.[1] Accordingly Laurence, who had already been informed by Czernyshev of Voronzov's denial and indignation, drew up in rather faulty French what he called a *Species Facti*, in which he made a full statement of the way in which the story had reached him, though without giving the names of his actual informants (these he later supplied to Hyndford). This document was carried by Choglokov to St. Petersburg, where it was eagerly welcomed by Hyndford as a weapon to be used on a suitable occasion with the Tsaritsa.

This was the situation when in August, 1746, Voronzov, after a second visit to Berlin, returned to St. Petersburg and discovered that Laurence not only persisted in repeating his story but had supplied his version of it to his declared opponents. He was so indignant that he refused to pay the customary visit on his return to the British ambassador, and Hyndford complained to Harrington of his rudeness. It was clear that Voronzov's influence had declined during his absence. A treaty—the famous treaty of the two Empresses—had been concluded with Austria on 26 May, and Frederick, much to his annoyance, had been requested to recall Mardefeld from St. Petersburg. In retaliation he insisted that Czernyshev should quit Berlin, and the latter had been consoled by being sent to London. Voronzov determined

[1] Hyndford's letter is in Add. MSS., 11,381, fo. 97. It is rather curious, in view of Hyndford's testimonial as to Laurence's command of English, that he always writes to him in French, and Laurence replies in the same language.

to take advantage of his friend's presence in England to strike a bold blow in his own defence. Without any authority from the Tsaritsa, to whom the story of his alleged betrayal of secrets at Berlin had not yet been communicated, he wrote to Czernyshev on 20 September instructing him to lodge a formal complaint against "Secretary Lorentz," and to demand satisfaction for so outrageous a slander.

This being a formal demand for ministerial intervention could not be concealed from Hyndford, who had long ago foreseen that some attack would be made upon Laurence. As early as the 24th of May, when Bestuzhev had received the full statement from Choglokov, Hyndford had written a warning letter to Harrington.

"This leads me to an affair which relates to Mr. Lawrence, the King's Secretary at Berlin, and which I was informed of by my friend here [Bestuzhev]: viz. that the Vice-Chancellor Worenzoff has swore vengeance against pore Lawrence, because he has told Count Czernichew of a certain discourse that had been held at Count Haak's table in Berlin, when Count Haak and other Prussian officers had expressed their great acknowledgments towards the said Vice-Chancelor for having informed the King of Prussia of the plan that Saxony had agreed upon to attack the Prussian hereditary dominions in conjunction with the House of Austria. Count Worrenzoff is supposed to have learned this in confidence from the Saxon ministry in his passage through Dresden, before the King of Prussia entered Lusatia, and that upon this information His Prussian Majesty had taken the steps we all know; this may prove a serious affair for the Vice-Chancellor, and my friend hopes that His Majesty will not listen to any complaints against poor Lawrence, in case the King of Prussia should, at the instigation of Worenzoff, demand Lawrence being recalled from Berlin." [1]

On 20 September, when he had heard of the step actually taken by Voronzov, he wrote again to tell Harrington to be prepared for a formal complaint against "poor Secretary Laurence, that good man." He adds that though

[1] Hyndford to Harrington, 24 May, 1746, in Add. MSS., 11,381, fo. 209.

Czernyshev will present the complaint, it comes from the Vice-Chancellor personally and not from the Russian court. "It is only the last piece of revenge from a French minister who seems *aux abois*." [1] At the same time Hyndford wrote to Laurence to warn him to be prepared with his defence. This letter compelled Laurence to make his first communication to Whitehall on the agitating subject. On 18 October (n.s.) he forwarded to Harrington his *Species Facti*, which he would have liked to put into cypher, but dared not, for fear Voronzov might have communicated the document to Mardefeld, so that if his letter were opened the cypher might be disclosed. At the same time he asked that the complaint should be forwarded to him, in order that he may demand satisfaction for so infamous an imputation at the Russian court as that he had invented the slanderous report.[2] With his letter he enclosed a copy of one written to Hyndford on the previous day, in which he amplifies his defence. He points out that no written or other evidence is produced to show that he was the originator of the story; that Czernyshev, who had heard it from others, including his own secretaries, never suggested such a charge, but on the contrary said he would invite him to meet Voronzov on the latter's return to Berlin, in order that they might discuss who the culprit was. He continues at great length to explain that no such invitation was ever given, that all his efforts to see the Vice-Chancellor when he paid his second visit to Berlin in July, were deliberately frustrated, so that he could never explain matters face to face. Finally, he argues that he had no reason for hostility to Voronzov, that if he had believed the story, he would never have mentioned it to Czernyshev, and he might have added that he would have deemed it his duty to report it to the English Secretary of State.

Harrington, therefore, was very completely prepared

[1] Hyndford to Harrington, 20 September, 1746, in Add. MSS., 11,382, fo. 110.

[2] Laurence to Harrington, 18 October, 1746, in S.P. For. Prussia, 62.

beforehand when Czernyshev presented his formal complaint against Laurence. At the same time he was evidently in a quandary as to the proper answer to make. The English ministry was almost irreconcilably divided between the section, headed by Henry Pelham and including Harrington, which desired a prompt end of the war, and the supporters of Newcastle, who thought another campaign might produce better terms and were willing, as a last resort, to purchase the direct assistance of 30,000 Russian troops in the Netherlands. From the point of view of either section, it was undesirable to alienate a prominent Russian minister. On the other hand, it was not politic to disregard Hyndford's warnings, and it might be easier in the end to overthrow the Vice-Chancellor than to conciliate him. As usual in such circumstances the Secretary of State evaded any direct decision. On 2nd October he wrote to Hyndford :—

"Mr. Czernichew has made the complaint you mention of Mr. Laurence's conduct towards Mr. Woronzoff, and I have received the papers from Mr. Laurence wherein he endeavours to clear himself from that imputation. But, as I have had no opportunity as yet of knowing His Majesty's pleasure with respect to the dispute between them, I am not in a condition to return an answer either to the Russian minister or to Mr. Laurence." [1]

At the same time he verbally assured Czernychev that he would ask Laurence for an explanation, and would punish him if it proved to be unsatisfactory. On 21st October, the Russian envoy conveyed this assurance to the Vice-Chancellor, and Voronzov, as Hyndford had anticipated, hastened to accept it as a virtual satisfaction of his demand, and paraded it among his friends as an admission that the charge against him was unfounded. On 15th November he wrote to Czernyshev to express his gratitude to Harrington, and to say that the matter might now be regarded as satisfactorily settled. He added that it need never have been

[1] Add. MSS., 11,382, fo. 178.

pressed, if Laurence had come to him when he was last in Berlin to give an explanation in person. This was in flat contradiction to Laurence's version that Voronzov had deliberately evaded an interview. Before any further step could be taken in London, Harrington had ceased to be Secretary of State.

Hyndford, with that Scottish *fierté* which infuriated Voronzov as it had formerly exasperated Frederick, was indignant that his urgent advice had not been taken, and that his enemy was enabled to flaunt an alleged acquittal by the English ministry. He was also genuinely alarmed for the possible results to Laurence, though he was not altogether satisfied with the latter's attitude in the matter. Laurence, anxious only to exculpate himself, had pleaded that he had never credited the report which he had helped to circulate. Hyndford, whose one object was to overthrow the Vice-Chancellor, was determined to accept the charge and to make the utmost use of it, and also of Voronzov's unauthorised complaint, to achieve his purpose. His letters to London became more and more imperative and querulous. On 18th October he had written to Harrington :—

"I beg your lordship will be pleased to acquaint me as soon as Count Czernichef shall make the complaint from the Vice-Chancelor Worenzoff against Mr. Laurence, the King's Secretary at Berlin, and that your Lordship will send me a copy of the letter which Worenzoff has wrote to Czernicheff on that subject, which no doubt he will produce. For I must again repeat to your Lordship that this complaint is so farr from being made on the part of this court that the Vice-Chancelor may happen to repent his having made a complaint to any foreign court without the Empress's leave or knowledge. He begins to be sensible of this, and I believe he would be glad to drop the affair entirely, but that would not suit the purpose of his antagonist." [1]

On 15th November Hyndford wrote to Harrington to acknowledge his letter of 21st October, and to express his

[1] Hyndford to Harrington, 18 October (O.S.), 1746, in Add. MSS., 11,382, fo. 170.

indignation that Czernyshev has represented Harrington to have promised him full satisfaction in the affaire Laurence. Hyndford adds the hope that he may receive authority to appear in the matter, in order "to justify Laurence and condemn the Vice-Chancellor." Meantime he will await instructions, unless Voronzov should endeavour to save his credit by producing the promise of satisfaction. In that case Hyndford would feel bound to intervene, to say that there had been no time to obtain the King's commands, and to defend Laurence by using the papers he had sent from Berlin.[1] Three days later he wrote again to enclose a copy of the letter which Voronzov had received from Czernyshev with regard to the alleged assurance from Harrington, and also of Voronzov's reply.

"This Vice-Chancellor has made a very bad use of your Lordship's supposed answer, having shewed it to his friends that it may come to the Empress's ears in a favourable light; but he would gladly drop the matter, for certainly it will not turn out well for him, if your Lordship sends me orders to prosecute it. Your Lordship will see by his reply to Czernichew of the 15th inst. that he seems to be satisfied with what your Lordship is supposed to have said to Czernichew, but his revenge in concert with Baron Mardefeldt is gone so far as to insist that the King of Prussia shall demand the rappel of poor Laurence from Berlin, which probably your Lordship will soon hear of, and I hope this will convince the King as well as the Empress that the common report of the Vice-Chancellor having betrayed the secrets of the Allies at that time was not without foundation, and it appeareth plainly by Czernichew's own confession that Laurence was not the author of that report, altho' he is likely to be the sacrifice of his honesty in giving the *species facti* to Chamberlain Tchoglokow, who had express orders from this court to enquire into that report on his way from hence to Vienna. But I hope the King will not recall his Secretary from Berlin without other good reasons given by His Prussian Majesty, and he hardly will make this dispute with Worenzow part of the charge against the latter; or if the King should

[1] Hyndford to Harrington, 15 November (O.S.), 1746, in Add. MSS., 11,382, fo. 238.

think fit to recall him at the request of the King of Prussia, I hope His Majesty will provide for that poor honest man, and one of his own subjects. In the meantime our friend is resolved to make a ministerial affair of this, and I have all the reason imaginable to believe that it will finish the little credit Worenzow seems to have remaining with the Empress." [1]

On 22nd November Hyndford returned to the charge, obviously eager to find in the attack upon Laurence fresh material for his campaign against the Vice-Chancellor. He had heard that Andrié, the Prussian agent in London, was demanding Laurence's removal without giving any reason.

" It appears to me very plain to be entirely at the instigation of Worenzow, and I wish your Lordship could prevail upon Monsr. Andrié to mention the Vice-Chancellor's name in this affair, and leave the rest to me. However, if the King should at last think proper to remove Laurence from Berlin, I wish His Majesty would employ him at Dresden in the same character, for I believe there is neither an English minister nor Secretary there at present, [2] and besides the service that Laurence may render His Majesty at Dresden, he will still be able to carry on his correspondence at Berlin. . . . I must further beg of your Lordship, in case the King cannot resist the King of Prussia's solicitations for the recalling Mr. Laurence from Berlin, that you would acquaint Mr. Laurence with it before Monsr. Andrié can inform his court, and pay Mr. Laurence his arrears to enable him to leave that place, otherways I am afraid some affront or insult will happen to the poor honest man." [3]

The sequel of the Laurence-Voronzov episode in Russia only indirectly concerned Laurence, but is in itself neither uninteresting nor unimportant. Newcastle's success in

[1] Hyndford to Harrington, 18 November (O.S.), 1746, in Add. MSS., 11,382, fo. 248.

[2] This was true at the time, but before Laurence arrived in Dresden Sir Charles Hanbury Williams had been sent there as Minister Plenipotentiary. From that moment there was nothing for Laurence to do at the Saxon Court, and it was sheer waste of public money to send him there. This partially explains why so little attention was paid to his piteous appeals, and why his claims for repayment of postages were persistently refused.

[3] Hyndford to Harrington, 22 November (O.S.), 1746. in Add. MSS., 11,382, fo. 255.

ousting Harrington from the Secretaryship was neither very complete nor very lasting, as Chesterfield before long proved to be a more obstinate pacificist than his predecessor. But the change did at the moment affect our relations with Russia. These turned upon two main issues. For a considerable time negotiations had been going on about a subsidy treaty which should bring Russian troops into the field on the side of Austria and the maritime powers. As to the scope of such a treaty, there was a choice between the hire of Russian troops, at great cost, to serve in the Netherlands, where the allies were weakest, and their employment, at a cheaper rate, on the frontiers of the Baltic provinces of Russia, to intimidate Prussia. Hitherto no agreement had been come to, not because Russia was averse to a subsidy, but because her demands were so extravagant. The other problem arose from the Russian demand that England should become a party to the Treaty of the two Empresses. The objection to this was a strong suspicion that the Treaty contained secret clauses which were aimed against Prussia, and England, after the experience of 1744, was not willing to provoke Frederick into a renewed entry into the war on the side of France. So Hyndford was instructed to say that England could only accept the treaty provided it was accompanied with a renewal of the guarantee of Silesia to Prussia. Even Bestuzhev, who in many ways was more anti-Prussian than pro-British, refused to accept such an irrelevant and distasteful condition.

Both negotiations were at a standstill when Chesterfield came into office. One of his first ministerial acts, while Newcastle was still preponderant, was to order Hyndford to apply with the utmost secrecy for 30,000 Russian troops to be employed at his Majesty's pleasure.[1] As this was certain to be vehemently opposed by Voronzov, Hyndford was given a free hand to use the Laurence papers against

[1] Chesterfield to Hyndford (in cypher), 4/15 November, 1746 (Add. MSS., 11,382, fo. 201).

the Vice-Chancellor just as if they had been sent to him from Whitehall.[1] A week later there was a weakening due to a fear lest any attack upon Voronzov might alienate Czernyshev. The latter had already been censured by Bestuzhev for having misrepresented Harrington's answer to Voronzov's complaints against Laurence. Chesterfield's second letter on the subject was evidently written with a view to the possibility that it might be opened in Russia.

"Upon the whole, the King would have your Lordship say that, though Mr. Laurence should certainly have been punished to the satisfaction of Count Woranzoff at first, yet as the said Monsr. Woranzoff had very handsomely declared that he would require no further satisfaction but let that matter entirely drop, and as Mr. Laurence had been acquainted therewith, his Majesty wishes that the affair may not now be revived, and that Monsr. Woranzoff will continue in the generous resolution which he took at first. [Continued in cypher.] This his Majesty merely does in consideration of Count Czernicheff, who, though he is not the greatest genius in the world, yet behaves himself very much here to his Majesty's satisfaction, and who, notwithstanding his connexion with Count Woranzoff, is in very right sentiments as to publick matters." [2]

Hyndford, never the most docile of ambassadors, obviously took the first letter as the instruction, and the second as a mere warning to be cautious in carrying it out. In acknowledging both letters, he writes :—

"Till I have an opportunity of talking with the Chancellor alone, I cannot determine whether it will be adviseable to revive that affair between Worenzow and Laurence, for I must be entirely guided by the advice of my friend here, and I have all the materials ready in case I am to proceed. It were rather to be wished that we could reclaim that young man [Voronzov] by gentle methods, that we might have two strings to our bow instead of one, altho' I confess I despair of it more from his inveteracy against Count Bestucheff than his dislike for us,

[1] Chesterfield to Hyndford (in cypher), 23 December, 1746 (O.S.), in *Ibid.*, fo. 354.

[2] Chesterfield to Hyndford, 30 December, 1746 (O.S), in *Ibid.*, fo. 369.

for this might easily be got over as he is exceedingly poor and not quite proof of money. However, I am of opinion to manage him as much as possible as far as it is consistent with the King's service, in case of accidents, altho' his credit at present is very small." [1]

Before Hyndford had made up his mind which card—conciliation or defiance—he would play in his game with the Vice-Chancellor, he was completely disconcerted by fresh evidence of that vacillation which was the besetting sin of the British cabinet at that time, as at others. The peace party had a strong argument, all the stronger because it appealed to the King, in the enormous expense of hiring Russian troops for western Europe, not only the subsidy but also the cost of transport. This argument was reinforced by the fact that Lord Sandwich at the Hague had adjusted a treaty with Austria and Holland which held out —on paper—the prospect of 140,000 troops in the Netherlands for the campaign of 1747 under the Duke of Cumberland (in place of the luckless Charles of Lorraine, who had commanded in 1746). Was it either necessary, or even desirable, to spend such an enormous sum upon Russian troops which might never be wanted, and would almost certainly not arrive till the campaign was over? Cumberland, who was George II's favourite son, could spend the money to much greater advantage. Newcastle, always fatally ready to trust paper assurances, was confident that we should win a triumph in the Netherlands without the Russians. Henry Pelham, who knew that the Austrians and Dutch would fail, as they had failed before, to furnish their promised contingents, was quite content to use these assurances as an argument when it was in the direction of economy and an early peace. And so Chesterfield was instructed to write a hedging letter at the end of January, 1747.

"I can only say in the meantime in general terms that, as the King will be at immense expense in carrying on the war

[1] Hyndford to Chesterfield, 31 January, 1747 (O.S.) in Add. MSS., 11,383, fo. 113.

this campaign, and as our army in the Netherlands will certainly consist of 140,000 men, I believe his Majesty will not be willing to be at so great an additional an expense as the taking of Russian troops into pay would necessarily occasion, but rather choose to give a moderate subsidy for a sufficient number of troops to be held in readiness on the frontiers of Courland to march for the defence and protection of such of his Majesty's allies as happen to be for the future attacked." [1]

This letter was written before Hyndford had reported as to the terms demanded by Russia. When those details did arrive they provided a good pretext for finally dropping the subsidy treaty. Meanwhile Hyndford, founding upon the fact that the British ministry was imperfectly informed, and also upon Chesterfield's use of the words " in the meantime," had paid no attention to Chesterfield's hedging letter, had continued to negotiate for the 30,000 men, and had decided to crush Voronzov's opposition by the disclosure of the Laurence papers.

" The liberty your Lordship has given me to make use of the materials I have in my hands against the Vice-Chancellor, came very much a propos, and is most agreeable to our friend, for our enemy, by the conviction of his little dirty French and Prussian tricks, is become so low that I hope this will prove his *coup de grace.* But I will spare Czernichew as much as possible, altho' our friend does not like him." [2]

When Hyndford learned that the ministry had come to a definite decision, that all his labour had been thrown away, and that he was to start afresh with a new and less attractive proposal, his indignation could not be wholly repressed.

" I confess, my Lord, I have now the spleen for the first time, and I long more than ever to change my situation to some warmer climate and less expensive court, excepting only the

[1] Chesterfield to Hyndford (in cypher), $\frac{23 \text{ Jan.}}{3 \text{ Feb.}}$ 1747, in Add. MSS., 11,383, fo. 103.

[2] Hyndford to Chesterfield 7/14 Feb. 1747, in *Ibid.*, fo. 127.

court of Berlin, from which I hope the King will dispense me for reasons very well known to his Majesty." [1]

There were two especial reasons for Hyndford's wrath. In the first place his great friend, the Chancellor, was exasperated and alienated. Bestuzhev had exerted all his influence to induce the Tsaritsa to take the decisive step of sending her troops across Europe to be at the disposal of another sovereign, and all his efforts had been thrown away. In the second place, Voronzov's position and influence had been strengthened. He could point with scorn to the untrustworthiness of English diplomacy and the imbecility and ingratitude of the English government.

Hyndford could not get his release, because, as Chesterfield replied to him, there was only one vacant embassy, and that was at Berlin, where he wouldn't go. So he had wearily to set to work to bring about a new convention on the minor scale. It was at this time that he began to press for a pecuniary gratification to Bestuzhev, as necessary to regain his forfeited allegiance. Although he could not induce ministers to give that gratification in the precise form which the Chancellor desired, there can be no doubt that the prospect of pecuniary gain induced Bestuzhev to return to his co-operation with Hyndford. Among other matters discussed was the Russian desire to exclude Frederick's brother-in-law from the succession to the Swedish throne. In his desire to conciliate England the Chancellor went so far as to suggest the substitution of the Duke of Cumberland, George II's son, or the hereditary Prince of Hesse, his son-in-law.[2] But Hyndford declined to turn his attention from the essential point of the subsidy treaty. The main obstacle was the resolute opposition of Voronzov, who contended that England was merely playing with Russia, and would abandon the present proposal as it had abandoned the previous one. While the contest was at its height, Count Finckenstein, destined to be Foreign

[1] Hyndford to Chesterfield, 14/21 Feb. 1747, in Add. MSS., 11,383, fo. 146.
[2] Hyndford to Chesterfield, in *Ibid.*, fo. 334.

Secretary at Berlin for half a century, arrived to fill the place of Prussian minister at St. Petersburg which had been vacant since Mardefeld's departure in the previous year. Finckenstein at once ranged himself on the side of the Vice-Chancellor with, as it proved, rather disastrous results. The precise knowledge which Finckenstein showed of the course of the previous negotiations suggested to Bestuzhev and Hyndford that Voronzov had betrayed Russian secrets to the Prussian envoy. They conveyed their suspicions to the Tsaritsa, and backed them up by producing the Laurence papers to demonstrate that this was not the first time that the Vice-Chancellor had been guilty of the same offence. Elizabeth was shaken, if not convinced, by these coincident charges, and Hyndford got his Convention signed on 12th June, 1747. In his letter to Chesterfield, describing his success, he says :—

"The Empress seems to have as great a suspicion of him [Voronzov] as we have, and yet she insisted that he should sign the Convention, which he had not read till he put his name to it, so that no doubt the King of Prussia will hear of it by the next post." [1]

And so Laurence, with Hyndford acting as his proxy, had won against Voronzov at St. Petersburg. But the victory was useless either to himself or to England. Cumberland did not get his army of 140,000 men, nor did he win the anticipated victory in the Netherlands. On the contrary, Marshal Saxe defeated him at Lafeld, and Löwendahl astonished Europe by taking Bergen-op-Zoom. In Italy the Austrians and Sardinians failed to recapture Genoa, and seemed to be on the verge of fighting each other. As a last hope of evading an ignominious peace the distracted English ministers ordered Hyndford to return to his former plan, and to purchase 30,000 Russian troops for the Netherlands. He got them, too late to be of any use. But that is another story.

[1] Hyndford to Chesterfield, 13/24 June, 1747, in Add. MSS., 11,383, fo. 486.

NOTE

It would add to the interest of Laurence's career if it could be held that his story about Voronzov solved the disputed problem as to the source from which Frederick obtained his information of the Saxon plan of a direct invasion of Brandenburg. But the evidence is clearly against such a contention. Voronzov's last interview with Frederick during his first visit was on 3rd November, 1745, when he dined at Potsdam without, as Laurence records, the presence of Czernychev. But it is clear from other sources that Frederick had no definite information of his enemies' schemes until the 8th and probably not until the 11th. By that time Voronzov had departed from the Prussian Court.

Frederick's own statement (*Mémoires*, I, p. 338) is that he received the intelligence on the 8th November from Rudenschöld, the Swedish envoy in Berlin, who had himself received it in a letter from Wulfenstierna, the Swedish envoy in Dresden. The editors of *Preussiche Staatschriften* (I, p. 720, note 1) alter the date to the 11th, but confirm the rest of Frederick's statement. They quote the relevant extract from Wulfenstierna to Rudenschöld, which the latter communicated to the Prussian King, and which served as a text for Frederick's important letter to Andrié on the 12th (*Pol. Corr.*, IV, p. 337). Carlyle (Vol. V, p. 163) gives a variant of this story. According to him Rudenschöld in person paid a visit to Dresden; he and Wulfenstierna dined with Brühl; and the Saxon minister in his cups betrayed the secret to his guests. Rudenschöld hastened back to Berlin and at once carried his news to Frederick.

Arneth (III, p. 145) rejects Carlyle's story on the ground that Rudenschöld demonstrably did not leave Berlin at this time: and he is supported by the equally demonstrable fact that the information came to Rudenschöld by letter. Arneth, however, also disputes Frederick's statement on the ground that Rudenschöld, in his dispatches to Stockholm, never refers to any disclosure to Frederick. He argues that the envoy would not have ventured on such an important step without informing his own government. But there is conclusive evidence that he did this and that he wished to conceal it. On 23rd December, two days before Saxony accepted the treaty of Dresden, C. W. Borcke wrote to Frederick that Rudenschöld implored the King not to disclose to Wulfenstierna the fact

that the latter's letter about the Saxon plan had been communicated to Prussia. Frederick replied that the request came too late, as he had already expressed his gratitude to the Swedish envoy (*Pol. Corr.*, IV, p. 385).

It is clear, therefore, that Frederick's statement was correct, except possibly as to the precise day on which the intelligence reached him, and that Voronzov must be acquitted of the particular indiscretion or treachery attributed to him in the story told by Laurence. On the other hand, it is clear that the Russian Vice-Chancellor was conscious of some indiscretion in his conversations with Frederick, otherwise he would not have attached so much importance as he obviously did to an accusation which he knew to be false.

THE AUTHORSHIP OF THE *DEFENSOR PACIS*

(*Alexander Prize Essay*, 1926)

By Miss Marian J. Tooley, M.A.

Read June 10, 1926

There is still some ambiguity about the authorship of the book *Defensor Pacis*. When it was first printed in the sixteenth century it appeared under the name of Marsilio of Padua alone, and subsequent editors repeated the ascription of the *editio princeps*. For long, therefore, it passed as Marsilio's work. But evidence has since been brought to light suggesting that a certain John of Jandun had some sort of interest in the book too. That evidence has been very variously interpreted.[1] On the one hand, Jandun has been treated as merely a copyist,[2] the translator of the French version,[3] or Marsilio's confidential adviser[4]; but on the other, as a collaborator who furnished the quotations from

[1] The most careful discussion of the evidence, both external and internal, bearing on the question of authorship is to be found in the article by N. Valois, *Hist. Litt. de la France*, Tom. XXXIII, pp. 571–3. He concludes that Jandun collaborated in some way with Marsilio. The same conclusion is reached by S. Riezler, *Die Literarische Widersacher der Päpste zur Zeit Ludwigs des Baiers* (Leipzig, 1874), p. 195, on the external evidence alone, and has been assumed in the most recent articles on the *Defensor Pacis* by C. K. Brampton, *Eng. Hist. Rev.*, Vol. XXXVII, p. 305, and C. W. Prévité-Orton, *Eng. Hist. Rev.*, Vol. XXXVIII, p. 7. But on the other hand, Jandun's share in the authorship of the book has been denied by B. Labanca, *Marsilio da Padova, riformatore religioso e politico* (Padova, 1882), pp. 117–24, on the ground that the book is the work of a student of practical politics, as Marsilio was, not of a student of philosophy such as Jandun; and by E. Emerton, *The Defensor Pacis of Marsilio of Padua; a critical study* (Cambridge, Mass., 1920), pp. 17–19, on the grounds of the unity of style throughout the book.

[2] E. v. Friedberg, *Die Mittelalterlichen Lehren über das Verhältniss von Stadt und Kirche* (1869), p. 114.

[3] J. Sullivan, *Amer. Hist. Review*, Vol. II, p. 598.

[4] B. Labanca, *op. cit.*, p. 117.

Aristotle,[1] or perhaps constructed some of the philosophical arguments.[2] But what exactly his share was has yet to be determined.

Nothing but an unchallenged assertion by either Marsilio or Jandun could settle the question beyond any shadow of doubt ; and Jandun had too little assertiveness, Marsilio too much, for either to be concerned to make any such statement. But in default there is an amount of suggestive circumstantial evidence. The *Defensor Pacis* on its first appearance created an immediate sensation, and the problem of its authorship was debated already by contemporaries. Their enquiries do not carry us very far however, for they were only concerned to discover *who* were concerned in its composition ; they were not interested to know how far each was concerned. But there is other evidence that makes it possible to hazard an answer even to this question. Both Marsilio and Jandun severally produced other pamphlets which reveal their personalities as writers. They appear to have been men of widely differing capacities[3] ; Jandun was a scholar absorbed in abstruse systems of abstract thought, Marsilio a political pamphleteer interested in immediate questions. The difference between them is indeed so marked, that if they collaborated on any terms of equality, it would be most unlikely that their joint production should not bear upon the face of it distinct traces of two hands at work, the scholar's and the journalist's. A careful reading of the *Defensor Pacis* then, in the light of this evidence, should suggest not only whether the book was really the work of two men, but if so, what precise share each had in its composition.

A very strong case for some sort of collaboration is furnished by the external evidence alone. Jandun's name is invariably coupled with Marsilio's by their contemporaries,

[1] C. W. Prévité-Orton, *op. cit.*, p. 7.

[2] N. Valois, *op. cit.*, p. 572.

[3] For a list and descriptive account of Jandun's and Marsilio's works, see N. Valois, *op. cit.*, pp. 536–60 and pp. 602–18.

and that not carelessly, but after diligent enquiry. The question of authorship was originally discussed at an enquiry held by the Pope in May, 1328,[1] when the first reports of the book reached Avignon. At that enquiry Francis of Venice, a former pupil of Marsilio's, was examined on the charge of having assisted to transcribe and distribute copies of the *Defensor Pacis*. He was obviously chiefly concerned to clear himself, and as might be expected denied any knowledge of its contents. But he did give evidence that it was the common talk among the Masters and students in Paris that the book was the joint work of Marsilio of Padua, late Rector of the University, and John of Jandun, a distinguished Aristotelian commentator; it had been written in Paris previously to their hasty flight to the court of the Emperor. Marsilio and Jandun had already been excommunicated in April, 1327,[2] as presumed joint authors of the heresies contained in the *Defensor Pacis*. In all the numerous Bulls [3] that follow referring to the subject, the names of the two men are invariably associated.

This association persisted throughout the fourteenth century. For instance, in 1375, when a Papal enquiry was held at Paris over a French translation which had appeared, both the Pope and the officials of the University assumed a joint authorship without question [4]: in 1377 a Papal Bull [5] interdicting the preaching of Wyckliffite doctrines in the University of Oxford, accused Wyckliffe of having borrowed his opinions from Marsilio and Jandun.

Doubts, however, have been thrown on the value of this contemporary evidence on the grounds that it rests on mere hearsay.[6] Neither the Pope nor the Paris Doctors, it has been objected, found anything more than popular report to

[1] Baluze, *Miscellanea*, II, p. 280.
[2] Martène, *Thes. Novus Anec.*, II, col. 692.
[3] See, for example, Martène, *op. cit.*, II, col. 778, the Bull of June, 1329; col. 813, the Letter of Sept. 1330; col. 817, the Letter of Jan. 1331.
[4] Denifle, *Chartul. Univ. Paris*, III, p. 223.
[5] Walsingham, I, 345 ff.
[6] B. Labanca, *op. cit.*, p. 123.

go on; the general impression that Jandun collaborated with Marsilio arose only because of their close personal connection as adherents of the Emperor.

But the silence of both Marsilio and Jandun in the face of a succession of Papal Bulls condemning them both for the heresies contained in the *Defensor Pacis* seems a sufficient answer to these objections; it amounts to an admission of responsibility on the part of both. It is curious that if Marsilio alone wrote the book he did not come forward and claim undivided honours. His career suggests that he was ambitious, assertive and unscrupulous; avowal could hardly have exaggerated his offence in the eyes of the Papal Court and it would have enhanced his reputation. It is still more curious that Jandun, if he had had no part in it, did not repudiate responsibility. There is no evidence that he ever did so; he died under sentence of excommunication on this very charge, without ever having made the slightest attempt either to excuse or justify himself to the Pope.

The external evidence in favour of joint authorship is in fact hard to shake. But it suggests no more than the bare fact that Jandun was part author; one must go to the internal evidence of the book itself for more definite suggestions as to his particular contribution. But there difficulties appear; one meets at once a distinct suggestion that it is the work of one man, and that man Marsilio. The author appears from time to time as *ego*; he speaks frequently in the singular, *dico*, *ostendere volo*, *propositum meum*; once he clearly identifies himself with Marsilio by styling himself *Antenorides ego*, "I, the Paduan,"[1] referring to the mythical founder of Padua. This Marsilio, before coming to Paris, had led an active life of adventure which must have offered him many opportunities of various experiences. Correspondingly the *Defensor Pacis* is primarily a manual for the practical politician, written by a man of some experience, more especially of Italian politics.[2] The

[1] *Def. Pac.*, I, cap. i (Cartellieri, p. 4).
[2] B. Labanca, *op. cit.*, p. 118.

theory of popular sovereignty developed in the first part was possibly suggested by the republican constitutions of the Italian city-states [1]: the writer certainly discusses with some knowledge the disorder and division of the Italy of his day, and in his pronounced Imperialism, and still more his bitter anti-Papal, anti-clerical attitude betrays the Ghibelline. Jandun, on the contrary, was an untravelled scholar who had no experience of practical affairs, and knew nothing about republican constitutions.

Such is the case for the view that the *Defensor Pacis* is substantially Marsilio's work. It is based on remarks and opinions found in the book. But some caution is necessary in handling evidence of this sort. These statements, isolated from their context, are of little value as evidence of the authorship of the *whole* work; taken in their context they only prove Marsilio to have been the author of the passages in which they occur: they will therefore be valuable as evidence that Marsilio was sole author only if generally distributed throughout the book. Failing any such general distribution a theory of single authorship must stand or fall by the evidence of continuity in thought and expression.

There is, it is true, a general unity of ideas throughout the book. It is throughout pronouncedly secular. It tends to find in civil society the only organisation relevant to man's perceived needs, and to deny the necessity of any independent spiritual order. Some such an agreement with regard to the fundamental problems under discussion would have to exist between two men to enable them to collaborate at all. Contemporary external evidence in favour of a double authorship can only be seriously shaken when it can be shown either that there is a very close logical sequence in the argument from point to point throughout the book: or if the writer is not a logical thinker, that the same incoherencies and confusions occur throughout.

Neither of these alternatives is true of the *Defensor*

[1] C. W. Prévité-Orton, *op. cit.*, p. 16.

Pacis. On the contrary, the book separates easily into two parts quite distinct in character. The first is a closely constructed philosophical argument. But in the second part the thought falls to pieces; different, even contrary assumptions are made; these give rise to conflicting statements; terms hitherto well-defined are misused till their meaning is finally lost. But what this part loses in meaning it gains in force; it is a bitter and at times impassioned indictment prompted by a destroying hatred.

A very summary analysis of the *Defensor Pacis* [1] reveals this essential incoherence of the work as a whole. It opens with an introductory chapter which claims to be an exposition of the argument of the whole work. It is to be essentially of practical and topical interest. The end of all political societies is the realisation of *tranquillitas*; yet their well-being is threatened everywhere by the Church's perverse claims to authority. Therefore, in the interests of secular governments enquiry is to be made into the origin and growth of this Power, with the object of suggesting means of destroying it. The attack is to be developed along two parallel lines.[2] In order that the book may stand unassailable, in the first *dictio* general principles are to be defined by the sure method of reason, in the second confirmed by the testimony of revelation; in the third *dictio*

[1] For an account of the editions of the *Defensor Pacis*, see J. Sullivan, *Amer. Hist. Rev.*, II, pp. 600–4. The *editio princeps* was published in 1522 at Basle; a facsimile of the first *dictio* was reprinted by A. Cartellieri (Leipzig, 1913); the second and third *dictiones* are most accessible in Goldast, *Monarchia S. Romani Imperii*, Vol. II (Frankfurt, 1614). Analyses of the argument are to be found in an article by J. W. Allen in F. J. C. Hearnshaw, *Social and Political Ideas of some great Medieval Thinkers* (London, 1923), p. 167; C. W. Prévité-Orton, *Eng. Hist. Rev.*, Vol. XXXVIII, p. 1; N. Valois, *op. cit.*, pp. 574–87; B. Labanca, *op. cit.*, chap. vi, vii.

[2] *Def. Pacis*, I, cap. i, "in prima demonstrabo intenta viis certis humano ingenio adinventis . . . in secunda confirmabo testimoniis veritatis in eternum fundatis auctoritatibus quoque sanctorum illius interpretum . . . ut liber iste sit stans per se . . . in tertia siquidem conclusiones quasdam, seu perutilia documenta, civibus tam principantibus quam subiectis observanda inferam, ex praedeterminatis habentia certitudinem evidentem" (Cartellieri, p. 5).

practical conclusions are to be collected in order to serve as a body of rules for secular Princes.

But this is a notable misrepresentation of the actual course of the argument.[1] *Dictio* II is indeed devoted to a discussion of the Church in relation to the revealed will of God, and a refutation of the claims of the actual Church, while *dictio* III is a summary list of conclusions that suggest definite practical reforms. But between the promise and its fulfilment is a long digression in which the main purpose is lost sight of altogether. Instead of discussing the position of the Church on the evidence of reason, as one expects, it turns aside into a purely scientific discussion of the origin, end, and necessary form of the State as such. This digression occupies practically the whole of *dictio* I, actually cap. ii–xviii. It is not till the last chapter of *dictio* I that there is an abrupt return to the declared purpose of the work, which is thereafter followed.

The mere fact that in this first section the author digresses into another subject destroys the plan of the book, since as a result *dictio* I fails to define the principles on which *dictio* II is based; it is not parallel and complementary to *dictio* II, but for the most part totally irrelevant.

This in itself suggests that of the two reputed authors, one planned the work, wrote the introductory chapter, and then contributed all those chapters that correspond to the outline given there, that is *dictio* I, cap xix, and the whole of *dictiones* II and III. His collaborator was responsible for that inserted section in *dictio* I which starting from an attempt to define *tranquillitas* goes on to discuss the State as an ideal conception.

But this suggestion becomes the only possible hypothesis when it is found that a very noticeable change occurs in the character of the discussion with the change of subject. *Dictio* I is the work of a rather remarkable philosopher and

[1] F. Scaduto, *Stato e chiesa negli scritti politici* (Firenze, 1882), II, p. 116, remarks on the fact that the plan is not adhered to and suggests that this is the result of collaboration.

Aristotelian scholar. His treatise is the characteristic product of the schools, preoccupied with the ideal, extremely detached in spirit, dispassionately argumentative in form. He puts the question, how must society be organised in order to secure its end, *tranquillitas*? He proceeds by deductive reasoning, citing Aristotle as his authority for each new step in the argument. Starting from a definition of this universal phenomenon of the State,[1] and an account of its inevitable evolution from the family,[2] he finds an explanation in the individual's fundamental incapacity to satisfy all his even physical needs, and his failure to co-operate spontaneously with other men to secure them.[3] This brings him to his conclusion that the State is originally necessary to well-being, as it at once organises and enforces such co-operation.[4] His account of the origin and purpose of the State thus set forth, after a preliminary analysis of the functions which must be discharged in the *perfecta communitas* if the needs of each member are to be satisfied,[5] he is then in a position to draw his conclusions as to its necessary form.[6]

This argument is developed with the logician's rigid and lucid economy of expression. His reasoning proceeds closely from conclusion to conclusion till the argument is complete, without turning aside into digressions or even illustrations, or back on itself into repetitions. There is therefore no real chance of the movements of the writer's mind becoming obscure. There are difficulties, but they are difficulties of language; the writer is a heretic defining his

[1] *Def. Pacis*, I, cap. ii. I have purposely used the word "state" when describing the subject of the argument of *dictio* I. The author had the conception though no Latin word to express it; he is even conscious of the difficulty; "regnum," he says, is "commune quiddam ad omnem regiminis temperati speciem," and he always uses the double phrase "civitas aut regnum" to make it clear he is discussing the character they have in common; any single Latin word he found unsatisfactory, as it suggested some particular form of constitution rather than a pure abstraction.

[2] *Def. Pacis*, I, cap. iii.

[3] *Def. Pacis*, I, cap. iv.

[4] *Def. Pacis*, I, cap. iv.

[5] *Def. Pacis*, I, cap. v–x.

[6] *Def. Pacis*, I, cap. xi–xviii.

heresy in a language which has been fashioned into the fine instrument of the orthodox ; his expression, perhaps his own thought is cramped by such a difficulty as this ; when he wants to say that law must be a definition of what constitutes the good of the community, he can only find to describe it the adjective " just," [1] which had of course accumulated moral associations that did not necessarily enter into his conception at all ; he thought of political society as simply existing to secure the necessities of life.[2]

But though it is easy to follow the movement of the writer's mind, nothing further can be discovered about him. His attitude is purely intellectual, dispassionate, extremely speculative, revealing none of the secrets of his personality. His style has that quality of remoteness and tonelessness that the language of dead philosophies must always have for later generations, unless it is coloured by familiar and universalising emotion.

But when the discussion turns from the consideration of the ideal State to the particular abuses of the actual Church, it loses its detachment abruptly and becomes the work not of the philosopher, but of the political pamphleteer. Thenceforward the attitude is moral, not intellectual ; the object is not enquiry into first principles in order to discover truth, but criticism of what is, in the light of preconceived notions of what ought to be, in order to revolutionise the character of a particular organisation. This change in attitude inevitably modifies the method of presentation. The writer is essentially asserting, not enquiring, and therefore the closely logical method is not necessary, and in fact disappears in favour of a purely arbitrary order. The various powers claimed by the Church

[1] *Def. Pacis*, I, cap. xii (Cartellieri, p. 36), and *passim, dictio* I.

[2] In his analysis of the functions performed in the community they are all governmental or economic save the function of the priest, and he suggests that that is as much governmental as moral. He divides society into the " pars agricultura," " pars artificium," " pars pecuniativa," " pars militaris," " pars iudicialis," " pars sacerdotium."—*Def. Pacis*, I, cap. v.

are first enumerated [1]; then they are criticised and denied to it one by one, being attributed in each case to their rightful possessors [2]: but the order is broken into from time to time by attacks on the clergy for making such claims, and accounts of how they have ever come to do so.[3] Then the process is reversed and an account of the right nature and true authority of the Church is given,[4] in the light of which its actual assumptions are denied *seriatim*. This account also is interspersed with further attacks on the clergy,[5] and further accounts of how they have come to abuse their office.[6] An actual example follows, taken from the contemporary Empire, of the unfortunate results of these claims.[7] Finally the author summarises for the last time the claims made by the Church and his answers to them.[8] But even this description suggests more orderliness than there is; every point is anticipated many times before it is made, and is repeated *ad infinitum*.

The arrangement is in fact clumsy, diffuse and wasteful in the extreme. The section on the Church is about four times as long as the section on the State, and yet the matter can be analysed in about the same space. This is partly because the writer makes full use of his opportunities for irrelevant digressions and needless repetitions. There are, for example, three long accounts of the development of the Papal claims and powers.[9] These claims are stated and re-stated. It is repeated at length in every conceivable connection that the divine law is not effective in this life, and that therefore the clergy can have no sort of coercive authority. All points are pressed home by repetition rather than by argument.

[1] *Def. Pacis*, II, cap. iii. [2] *Def. Pacis*, II, cap. iv–xvii.
[3] For example, *Def. Pacis*, II, cap. xi (Goldast, p. 221).
[4] *Def. Pacis*, II, cap. xvii–xxvi.
[5] For example, *Def. Pacis*, II, cap. xx (Goldast, p. 258); cap. xxiv (Goldast, p. 273).
[6] For example, *Def. Pacis*, II, cap. xxiii.
[7] *Def. Pacis*, II, cap. xxvii.
[8] *Def. Pacis*, II, cap. xxviii, xxix.
[9] *Def. Pacis*, II, cap. xviii, cap. xxiv, cap. xxvi.

But the length of these chapters on the Church is also partly due to a change in the method of demonstration, from demonstration by process of reasoning to demonstration from authority; that is to say, any statement derives its validity not from its place in a logical sequence, but from the external support of the *dicta* of received authority. The argument moves forward therefore by means of an impressive array of lengthy and copious citations. But it is remarkable that they are taken almost exclusively from the Scriptures and the Fathers. With the exception of a supposed definition of the Church by Aristotle [1] (*ecclesia* is taken to mean the Church), citations from his works disappear abruptly.

This sort of discursive treatment at best does not make for lucidity. But the obscurities in which the discussion becomes involved when it treats of the Church are not merely due to lack of arrangement, but to more serious faults, such as never appear in the first part, inconsistencies, incoherencies and conflicting statements. For instance, it is stated that the appointment to benefices belongs to some secular body, either the *legislator* or private persons.[2] These two statements may be reconciled, though there is no attempt to do so; but neither can be reconciled with the later statement that this appointment belongs to the independent spiritual authority, the General Council.[3] The writer thereby fails to make it clear whether he conceives the State as the all-sufficient organisation through which the individual can realise complete self-expression; or whether he thinks man's dual nature demands two independent organisations, the temporal and the spiritual, for the full satisfaction of his fundamental needs. The negative intention

[1] *Def. Pacis*, II, cap. ii (Goldast, p. 191).

[2] *Def. Pacis*, II, cap. xv, "electionem, qua unus ex ipsis ad aliorum ordinationem seu gubernationem assumitur . . . per legislatorem aut singulares personas statuta et ordinata" (Goldast, p. 241).

[3] *Def. Pacis*, II, cap. xxi, "ad nullius episcopi . . . auctoritatem pertinere, absque Generalis Concilii vel fidelis humani legislatoris determinatione in aliquibus mundi ecclesiasticis officiis personas instituere seu praeferre, neque pro eisdem officiis ecclesiastica temporalia, vocata beneficia, distribuere" (Goldast, p. 261).

of the writer's argument is perfectly clear; he is out to destroy the whole fabric of the actual organisation of the Church. But the same confusions beset all his positive statements when he discusses what should take its place.

It is perhaps worth mentioning that *dictio* II, like the whole work, opens with a plan of the argument. No such plan is necessary to *dictio* I; there the argument plans itself, being deductive. It looks as if the man who designed the book and wrote the second part had an uneasy sense that his material would escape his control altogether unless he had a written scheme to consult.

There is nothing intellectually remarkable about this writer; he is, in fact, hardly a thinker, though ingenious at devising expedients. What is remarkable about him is the quality of his emotional bias; there is an undisguised animosity about his insistent attack on the Church that strikes even a casual reader. The *Defensor Pacis* has been described as curiously "modern" in atmosphere. Perhaps the impression is due to the emotional character of by far the greater part of the book; it brings the writer into a near and familiar light, reveals his prejudices, hints at his experiences, stamps his personality on all he writes, and still makes this part much the more *effective* reading.

It is possible that a man setting out to write a topical and controversial pamphlet might be led aside into a not particularly relevant philosophical discussion of first principles. It is also possible that he could develope with complete detachment a theory of political society and yet betray a decided bias in discussing a particular institution about which he was prejudiced. But it is hardly likely that anyone capable of developing with precision logically complete theories in one part of a book could afterwards, when the controversial question came up, confuse and contradict himself. Yet this is what happens.

Dictio I, considering the Church from the point of view of its perceived relation to the needs of society, concludes that since the State is the one all-sufficient organisation, the

clergy must be an integral part of it, subject to the regulation of its government in exactly the same way as any other class of individuals.[1] But, it is added, the *raison d'être* of the Church rests on an assumption the validity of which cannot be demonstrated save to faith [2]; there is no ground in reason why it should exist at all, save that Governments have always found it convenient to encourage belief in a future state of rewards and punishments in order to simplify the problem of maintaining law and order.[3]

This extreme of scepticism does not reappear in *dictio* II. There the independent validity of the Church is assumed without question, and the writer ends by allowing the Church a parallel authority exercised by its independent governing body, the General Council, which defines doctrine [4] and appoints the clergy.[5]

Even more significant are the discrepancies in the use of terms. The writer of the first part is perfectly consistent; he always uses *legislator* for the community of citizens considered as the ultimate source of all political authority whatsoever.[6] No law, for instance, is binding on the community until sanctioned by the community; hence its name, *legislator*. But he is emphatic that though it gives, yet it

[1] *Def. Pacis*, I, cap. v, "sacerdotum" is one of the six functions performed by the State in order to secure "sufficiens vita" to the individual.

[2] *Def. Pacis*, I, cap. vi, is headed "De finali causa partis sacerdotalis ex dei traditione sive relatione immediate, impossibile tamen humana ratione convinci."

[3] *Def. Pacis*, I, cap. v, "Convenerunt tamen omnes gentes in hoc, quod ipsum conveniens sit instituere propter dei cultum et honorationem . . . (etc.). Cessabant que propter haec in communitatibus multae contentiones et iniuriae. Unde pax etiam et tranquillitas civitatum et vita hominum sufficiens pro statu praesentis seculi difficile minus servabatur" (Cartellieri, pp. 14, 15).

[4] *Def. Pacis*, II, cap. xix (Goldast, p. 254), and cap. xx (Goldast, p. 256).

[5] *Def. Pacis*, II, cap. xxi (Goldast, p. 261). See passage quoted above.

[6] The *legislator* is described, *Def. Pacis*, I, cap. xii–xiii, "dicamus legislatorem seu causam effectivam primam et propriam esse populum seu civium universitatem aut eius valentiorem partem, per suam electionem seu voluntatem in generali civium congregatione per sermonam expressam praecipientem seu determinantem aliquid fieri vel omitti circa civiles actus humanos sub poena vel supplicio temporali" (Cartellieri, p. 36).

cannot exercise authority : when he is considering how it can express the consent that makes law effective he hesitates between saying it is given expressly in mass meetings, and passively by recognition,[1] in which case the purely formal assent may be given by delegates *ad hoc*. But so sure is he that it cannot itself take action that not only can it not propose laws, but he is inclined to think it cannot even criticise proposals laid before it save through selected representatives.[2] For the actual Executive that the *legislator* endows with the right of exercising authority he uses the term *Pars Principans*.[3]

In the second part these clear distinctions become hopelessly confused. In the first place the term *legislator* is rarely used absolutely, but *legislator humanus*, *legislator fidelis*, and still more confusing *legislator humanus fidelis* all appear. This in itself involves a certain clouding of the conceptions of *dictio* I ; there the term *legislator* is always used absolutely, for the writer, seeing the state as all-sufficient,[4] never adds any qualifying description that confines his *legislator* to any specific activity. But more serious than this, it is impossible to make out exactly what this qualified *legislator* is. In such phrases as *fidelis legislator seu universitas fidelium* [5] it seems to be identified, as one would expect, with the community of Christians ; but

[1] *Def. Pacis*, I, cap. xii, " id fecerit universitas praedicta civium aut eius pars valentior per seipsam immediate, sive id alicui vel aliquibus commiserit faciendum, qui legislator simpliciter non sunt nec esse possunt secundum solum ad aliquid et quandoque, ac secundum primi legislatoris auctoritatem " (Cartellieri, p. 37).

[2] *Def. Pacis*, I, cap. xiii (Cartellieri, p. 44). A body of wise men frame the laws, these are promulgated in the whole community of citizens, who appoint representatives to consider, accept and reject these proposals.

[3] The *Principans* is described, *Def. Pacis*, I, cap. xiv–xviii, " secundarium vero quasi instrumentalem seu executivam dicimus principantem per auctoritatem huius a legislatore, sibi concessam, secundum formam sibi traditam ab eodem, legem videlicet secundum quam semper agere ac disponere debet quantum potest actus civiles."

[4] This is implied in his analysis of the functions performed by the State, *Def. Pacis*, I, cap. v. They cover the whole province of human activity, temporal and spiritual.

[5] For instance, *Def. Pacis*, II, cap. xxi (Goldast, p. 259).

when it is said that the presentation to benefices belongs to the *legislator humanus seu fidelium multitudo*,[1] this implies a body that can act, just what the writer in the first part was certain the *legislator* could not become. Yet a little later when he ascribes the same powers to the *Generale Concilium aut fidelis humanus legislator*,[2] he clearly identifies his *legislator* with the Executive Government of the Church. The meaning of *legislator* has been lost when used of a body which according to the terminology of the first part should be called the *Principans*. Such confusions are general throughout the second part. But it is hardly possible the cool and clear-headed author of *dictio* I could so have confounded his own conceptions.

Once it is assumed these two sections are the work of different hands, there is no difficulty in deciding which section is Marsilio's work. All the evidence that the book was written by him is confined to one division, and one division only, *dictio* I, cap. i and xix, and *dictiones* II and III. *Ego Antenorides* appears in the first chapter [3]; the contemporary condition of Italy is described in the first chapter,[4] and is not referred to again till chapter xix of *dictio* I,[5] and again in chapter xxvi of *dictio* II [6]; the Emperor is appealed to in the first chapter,[7] and the existing state of his relations with the Pope described in chapter xxvi of *dictio* II.[8] But in chapters ii–xviii of *dictio* I the first person singular is not used, nor are Italy, Louis of Bavaria, the Empire and the Papacy mentioned.

It is in this part, therefore, that one would look for John of Jandun's work. But, on the other hand, it has already been observed that there is a certain correspondence between

[1] *Def. Pacis*, II, cap. xvii, "ad legislatorem humanum solummodo seu fidelium multitudinem . . . pertineat eligere, determinare, ac praesentare personas promovendas ad ecclesisaticos ordines" (Goldast, p. 248).

[2] *Def. Pacis*, II, cap. xxi (Goldast, p. 261). See passage quoted above.

[3] Cartellieri, p. 4.

[4] Cartellieri, p. 2.

[5] Cartellieri, p. 77.

[6] Goldast, p. 285.

[7] Cartellieri, p. 2.

[8] Goldast, p. 285.

the theories there developed and the constitution of the Italian city-state.[1] The *legislator* is the Italian "Parlamento," still conceived of as the ultimate source of authority however its functions might have diminished actually; there is also a resemblance in the actual process of law-making; a special body, such as the "arbitri" of Florence, was elected from time to time to revise the statutes, just as in the *Defensor Pacis* new laws are initiated by a select body: then, again, the division of all citizens into *partes* corresponds to the Italian system of "arte" or trade-gilds.

But the author of this part confines himself so strictly to the abstract that the analogies between his theories and any particular constitution can be made out in many connections, but nowhere are they very close. The essence of his assertion is this, that since the State exists for the common good, law is sanctioned by general consent, or at any rate the consent of the greater part[2]; but the devising of suggestions must necessarily belong to a small group which has the intelligence, the knowledge, and the leisure that is lacking to the vast majority for whom law is made.[3] These statements would apply, with equal appropriateness, to almost any process of law-making; for instance, the policy of the French Government under Philip le Bel. Again, since the State is a co-operative society for the satisfaction of common needs, all its members may be considered as grouped into *partes*, each functioning to satisfy one of those needs[4]—the farming group, the industrial group, and so forth. These divisions, however, are functional, whereas the lines of division between the Italian "arte" were arbitrary. Moreover, the *partes*, as such, have only an ideal existence, being mere names describing collectively all the individuals engaged in performing a certain function; it is never suggested that they have the actual organisation of a gild, or exist as distinct communities. If the constitution

[1] C. W. Prévité-Orton, *Eng. Hist. Review*, Vol. XXXVIII, p. 16.
[2] *Def. Pacis*, I, cap. xii.
[3] *Def. Pacis*, I, cap. xiii.
[4] *Def. Pacis*, I, cap. v.

of the Italian city-state was the source of the writer's theories, he highly idealised and abstracted it.

But the evidence does not suggest that this was the case. It is very noticeable that though there are references to political conditions in Italy in other parts of the *Defensor Pacis*, here where the State is being discussed and one would expect them to become more precise, they disappear altogether. Instead, one finds the author admitting a quite different source of inspiration; his authority is not Padua but Aristotle. This in itself is sufficient explanation of the fact that when he does betray any bias, it is in favour of forms only workable in a city-state. Moreover, Parisian scholars had been using the Politics as a basis for the development of similar theories about the essential organisation of the State two generations before his time; their views must have been commonplaces in the University by 1324. The Civilian theories [1] of the popular origin of political authority and the dual process of law-making had penetrated the Scholastic Universities, to be reinforced by the independent study of Aristotle. Aquinas and the Thomists worked all into a single system when considering the end and form of political society. The claim of this part of the *Defensor Pacis* to originality does not indeed depend at all on the conclusions it reaches. All its theories—the co-operative theory of society; the theory that because law is for the common good it must be sanctioned by common consent though initiated by the wiser sort; the theory that the magistrate's authority is derived from the community—had been fully developed already.[2] It is the assumptions behind these conclusions that make it original. Its orientation of ideas is quite different. It sees society as originating not in man's need for security in order that he may be freed to pursue his spiritual purpose, but in man's need for co-

[1] For a general account, see A. J. Carlyle, *Medieval Political Theory in the West*, Vol. II, chap. vii.

[2] For an account of Aquinas' theories that brings out the correspondence between them and *dictio* I, see H. R. Feugueray, *Essai sur les doctrines politiques de S. Thomas d'Aquin* (Paris, 1857).

operation to secure mere material well-being. Its theories that is to say are Thomist theories handled by a sceptic.

Both Jandun and Marsilio of course were long enough at Paris to become thoroughly acquainted with current theories. But whereas *dictio* I is unique in character if it is to be numbered among Marsilio's writings, it is exactly the sort of treatise on the State that one would expect from Jandun, for fortunately this proposed division of the *Defensor Pacis* between Marsilio and Jandun can be checked by reference to their other and independent writings.

Jandun wrote a number of commentaries on the various works of Aristotle known to the Middle Ages.[1] They are of an extremely speculative and abstract character, occupied with such philosophical problems as the nature of the soul, and the unity of the human intellect. They show that his thought was permeated by those Averroistic conceptions which were the form that the scholarly scepticism of the late thirteenth century took in the University of Paris.[2] It denied by implication the doctrine of the survival of the individual soul after death; its necessitarian theory of causation by denying free will tended to absolve the individual from moral responsibility; its assertion of the eternity of matter and movement and the unending blind evolution of the universe denied the orthodox account of the relation of God to the created world. Such doctrines, already condemned in 1277, Jandun was tending to reaffirm, though he tries to avoid the charge of heresy whenever his

[1] For a list of the manuscripts of Jandun's other treatises and their printed editions, where such exist, see N. Valois, *op. cit.*, pp. 536–60. He gives a very brief abstract of the argument in each case. The most important are the *Quaestiones super Libros Physicorum*, *Quaestiones super Librum de Substantia Orbis*, *Quaestiones super tres libros Aristotelis de Anima*, and *Quaestiones in XII Libros Metaphysicae Aristotelis*. They reveal his fundamentally Averroist position, and the clash between such conceptions and the creed he is at pains to subscribe to. He also wrote the far less formal and more intimate *De Laudibus Silvanecti* (Senlis) and *De Laudibus Parisius*. Their titles are an indication of their contents.

[2] For an account of the Averroist philosophy in the University of Paris, see P. F. Mandonnet, *Siger de Brabant et l'Averroisme latine au XIII^e Siècle* (Fribourg, 1894).

theories are in direct contradiction to the doctrines of the Church by a rigid separation of faith and reason as leading to the apprehension of different, even contradictory truths.

Dictio I of the *Defensor Pacis* is marked by a scepticism that could be expressed in the terms of Averroistic philosophy. It tends to see all human activity as directed towards the realisation of merely material needs, and governed absolutely by a law of necessity ; it tends to get rid of the idea of moral responsibility when moral behaviour is treated as mere prudence which is perceived to be ultimately necessary to security. The author throws more than a shadow of doubt on his belief in the Medieval Church when he excepts it alone on grounds of faith but not of reason from the statement that all religious systems are human inventions. But he too escapes an open avowal of scepticism by that same separation of the evidence of faith and the evidence of reason. Jandun has left commentaries on all the works of Aristotle he knew, save the Politics. *Dictio* I supplies the missing treatise. When it is found that the Politics are used as the basis of a " scepticised " Parisian theory of the State, the evidence seems complete that Jandun was the author of *dictio* I.

Marsilio's name appears as that of the author of three other tracts, the *Defensor Minor*, a tract on Divorce and the *De Translatione Imperii*. They are like *dictio* II and only *dictio* II of the *Defensor Pacis*, *livres de circonstance*. In none does he appear as the philosopher who could have written *dictio* I.

The *Defensor Minor* [1] is an elaborate repetition of *dictio* II. Marsilio says all over again that the Church can have no coercive authority ; that its claim to exercise such is a fruitful cause of disorders ; that the purely spiritual authority of the Church is vested not in the clergy but in the whole community of Christians or a General Council, and so forth.

[1] Edited by C. K. Brampton (Birmingham, 1922). It is analysed by N. Valois, *op. cit.*, p. 606.

But, on the other hand, there is no discussion of the theories of *dictio* I, no appeal to Aristotle, but only to the Fathers and the Scriptures.

Of the other two tracts, the one on Divorce [1] was written to support a particular scheme of the Emperor's, the divorce of the heiress Margaret of Maultasch, Duchess of Carinthia and Countess of the Tyrol, from John the son of the King of Bohemia, and her marriage to the Emperor's son.

The *De Translatione Imperii* [2] was promised in the first chapter of *dictio* II of the *Defensor Pacis*, probably with the same object of winning the Emperor's favour by a persistent advocacy of his claims. But not being at all interested in the question as such, Marsilio evidently disliked the labour of composition. Instead, therefore, of writing a pamphlet of his own, he unearthed a treatise on the subject by Landulfo Colonna,[3] written in 1260 and very likely forgotten by 1325. As a matter of fact it did not suit his purpose particularly well, for although it takes the form of an uncommented historical account, the Pope always appears as the agent : " Papa imperium transtulit " is the normal phrase. Marsilio repeats Colonna *verbatim* till he comes to a compromising remark of this sort, and then evades the difficulty by the simple expedient of taking refuge in the impersonal construction : " in the time of Pope X the Empire was translated." This, a little judicious cutting, and an introduction containing a characteristic plan of the argument, and the tract was issued under his own name, without any sort of reference, much less apology to Colonna. He was apparently quite careless or indifferent that he had made it meaningless for controversial purposes.

These two tracts show that outside the *Defensor Pacis* Marsilio never appeared as the philosopher of the schools,

[1] This was possibly originally part of the *Defensor Minor* and later separated ; J. Sullivan, *Eng. Hist. Rev.*, Vol. XX, p. 508. It is printed as a separate tract in Goldast, Vol. II, p. 1286.

[2] Printed in Goldast, Vol. II, p. 147.

[3] Printed in Goldast, Vol. II, p. 88. N. Valois, *op. cit.*, p. 604, points out the practical identity of the two tracts.

and the second adds the information that he felt no particular discomfort in putting his name to another man's work.

One might hazard a guess at the history of the composition of the *Defensor Pacis*. Marsilio projected a great attack on the Church. But conscious of certain deficiencies in himself, he went to Jandun, a fellow member of the University of Paris, for a philosophical basis, knowing him to be the follower of a school of philosophy antagonistic to orthodox dogma. He hardly got what he wanted. Jandun himself apparently had no particular animus against the Church, but offered a commentary on the Politics which practically ruled the Church out. Marsilio was apparently careless whether it was strictly relevant to his purpose or not; he inserted those chapters as they stood, and for the rest wrote as if the work was entirely his own, as he did later with Landulfo Colonna's tract.

It followed that in time Marsilio's name ousted Jandun's altogether. Considering the circumstances this is not surprising. Marsilio was the hero of a melodramatic career: it was Marsilio who was known to be the Emperor's adviser on his expedition into Italy against the Pope in 1328; Marsilio who as Imperial Vicar distinguished himself by a violent proscription of the Roman clergy; Marsilio who made himself conspicuous as the champion of the excommunicated Emperor on his return to Germany. He was, in fact, much talked about. But Jandun, on the other hand, stood always in his shadow, never singled out in the popular imagination by any daring or original conduct; he never indeed even in his own lifetime became a distinct figure. When then the excitement caused by the appearance of the *Defensor Pacis* subsided and the enquiries about its authorship ceased, his name disappeared rapidly into obscurity, and the memory of his connection with the book faded almost at once. The manuscripts of the *Defensor Pacis* [1] in existence have Marsilio's name alone on them, some

[1] They have been examined and reported on in an article by J. Sullivan in the *Eng. Hist. Review*, Vol. XX, p. 293.

Occam's, but none with Jandun's, though there is a fourteenth-century manuscript at Paris [1] with a picture in the forefront representing two Masters kneeling and presenting a book to an assembly of Doctors. In 1375 the Pope and the Paris Doctors were still talking of Jandun as part author [2]; but by 1430 Nicholas of Cusa was already using Marsilio's name alone when referring to the *Defensor Pacis*.[3] The sixteenth-century printers probably never connected Jandun's name with the book at all; in obedience to a generally received tradition they set forth their title-page: *Adversus usurpatam Romani Pontificis iurisdictionem Marsilii Patavini de re Imperatoria et Pontificia liber qui Defensor Pacis inscribitur*. Thus they unconsciously fixed the tradition of the book's authorship for three centuries.

[1] 14619 (S. Victor). Described by N. Valois, *op. cit.*, p. 573, footnote.
[2] At the enquiry about a French translation. See above.
[3] Nicholaus de Cusa. Opera, *De Concordantia Catholica* (Basle, 1565), p. 772.

THE MAKING OF A CROWN COLONY: BRITISH GUIANA, 1803–33

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In the history of South America as a whole, the first thirty years of the nineteenth century were marked by wars of independence and the diplomatic search for political recognition. Among these struggling republics and revolted Empires, a little enclave remained under European rule. Facing the Atlantic, between the Orinoco and the Amazon, guarded by mountain ranges, lay the coastlands of Guiana, a series of river basins occupied by a medley of European peoples.

Here, in the early days of Spanish and Portuguese domination in the West, neither Spaniards nor Portuguese had penetrated, and the coast had stood open to the activities of the newer maritime powers. Here, England, France and the Dutch had made some of their earliest ventures in overseas rivalry. Here, Ralegh won fame in 1595, and carried out his last colonial project in 1618. Here, half a century later, a royalist governor of Barbados set up a refuge for defeated Cavaliers, only to be overthrown by the Anglo-Dutch settlement of 1667–70. For long the Dutch were undisturbed by English rivalry. In the land of the "Three Rivers" (Essequibo, Demerara, and Berbice), as also in Surinam, their authority was undisputed. Beside them only the French remained, in their settlements at Cayenne.

Nearly a century passed before English interests were revived. And then again the impetus came from Barbados. This time the promoter of the venture was not a royal favourite or dispossessed patentee. It was an ambitious planter, zealous to increase his gains; one, Gedney Clarke, a man of little reputation. Already, he was a Collector

of the Customs and the owner of extensive lands. But land in Barbados had long been " used up " and he turned his eyes to the undeveloped Dutch settlements. Here in Demerara and Essequibo, he found what he wanted, and he led a movement for the promotion of intercolonial trade and for migration to the Dutch colonies. Gedney Clarke paid heavily for his enterprise. The London merchants denied him credit, refused him even the good word that would gain him credit elsewhere. Governors of Barbados, and Secretaries of State at home, all looked askance upon a Collector of the Customs busy in illicit trade. But in fact he was doing work of lasting importance. The trade which he built up was one of the early blows to the system of the Navigation Acts. It was also the beginning of a new period of prosperity in Guiana.[1]

By the time of the American War of Independence, Gedney Clarke and his friends had already formed the nucleus of a British settlement in the Dutch colony. The conclusion of that war brought further settlers from Tobago, preferring Dutch rule to that of France. The Revolutionary Wars found British influence already great, and the surrender in 1795 and again in 1803 was partly due to its work. The greater part of the capital invested in the country was British, the trade was in British hands : only in the number of resident landholders did the Dutch keep their predominance.

The surrender of 1803 was the final turning-point between Dutch and British rule. The colonies were henceforth British, as they had once been Dutch ; but the mixture of the two influences remained, until the cleavage disappeared in the struggle of the next thirty years. This was the first great work of this turbulent period. The two groups of settlers, at first antagonists, became united, for the faction

[1] The work of Gedney Clarke is described in *Storm van's Gravesande* (2 vols., Hakluyt Society, Series II, Vols. XXVI and XXVII). Further light on his activities can be obtained from the unpublished letter-books of Messrs. Lascelles and Maxwell, West India merchants, in the possession of Messrs. Wilkinson and Gaviller, 34, Great Tower Street, London.

struggles of later times showed no sign of racial division. The second achievement of the time was the realisation of geographical unity. The several settlements of the Dutch became the British Guiana of modern times. A new unified Anglo-Dutch state was formed, and it was to this that the constitutional position was given, which heralded the system of crown colony government.

The story is largely one of local difficulties and struggles: of English governors meeting problems wholly alien to their ideas. Much of the responsibility for their conclusion was due to the Governors. Some credit at least belongs to the Dutch colonists, and especially to a leader among them, the Fiscal Van Berckel, whose career well illustrates the change from hostility to support. But some credit is due also to the administrators at home. If the Colonial Office under Bathurst reached little more than some realisation of colonial difficulties, a new prophet was soon to arise. James Stephen, who began work in 1823, was the great formulator of colonial policy. The troubles in the colony were indeed met by the men who worked amongst them; but it was Stephen who learnt the lessons and profited by them to lay the foundations of the new colonial system of the nineteenth century. He was virtually the creator of the "crown colony" system, which divided the Empire constitutionally in two, and thus permitted the growth of one part to dominion freedom.

The term "crown colony" is hard to define at the present day; and the idea it expresses is too vague to make definition necessary.[1] There was a period, however, when the term had a concise meaning and the idea a real importance. In the middle years of the nineteenth century, a crown colony was one which, not having a representative assembly, was a sphere for legislation by the King in Council. There, an Order in Council was as binding as an Act of Parliament.

[1] Professor A. B. Keith uses the term in his recent book, *The Constitution, Administration and Law of the Empire*, in the commonly accepted sense of colonies other than dominions: see p. xvii.

The rights of the Crown, which, as Lord Mansfield had declared, had lapsed in other colonies, were still operative in them. They were "crown colonies" in fact as well as in name, for the Crown's rights were unimpaired. Constitutional changes in the West Indies later in the century have made this criterion impracticable to-day. But from 1840, roughly, to 1870 it provided a real line of demarcation between two constitutional groups. In the "representative" colonies the constitutional system, dating from the seventeenth century, was roughly similar to that of the England of the Restoration period: in the "crown" colonies the system was avowedly unlike that of the mother country. On one side of the line lay with few exceptions all the colonies of the old Empire; on the other nearly all those which had come under British rule since the disruption.[1] Crown colony government was a device of the new Empire, and it played an important part in the development of the constitutional system on which that Empire is based.

In 1803 the Crown Colony system was not yet in existence. It was hammered slowly into being in the period of the Napoleonic War and the peace settlement, not receiving recognition until the second quarter of the century. It was the product of many causes, among which imperial diffidence and the distractions of war and peace are of great influence. But the determining factor was the question of slavery. "I returned your . . . draft this morning . . ." wrote Canning of the Slave Registration

[1] Cf. List of "crown" and "representative" colonies drawn up by Sir P. Julyan in 1860, C.O. 323/254. Sir P. Julyan was the crown agent, and from the history of that office much light can be obtained as to the origin of the distinction. See my article in *E.H.R.*, April, 1925. The term in the early nineteenth century meant "conquered possession," being used to describe the conquests of the Napoleonic War (cf. "Ceded Islands," in 1763). Conquered possessions were subject to constitutional traditions different from those of settled colonies (see Campbell *v.* Hall, 1774; 20 *St. Tr.*, pp. 322 *et seq.*); then the term came to be used of all colonies having the form of government looked upon as characteristic of conquered colonies, and the fact of conquest was no longer essential to it.

Bill in 1816, "will not another form of prescription be requisite for the colonies which have happily no legislatures?" [1] The Crown Colony system transformed the suppression of the slave trade and the amelioration of slave conditions into comparatively manageable tasks. This was the final criterion in Trinidad, and, as will be seen, in Demerara. Crown colony government, having arisen almost by accident, was retained for the convenience of statesmen to whom the anti-slavery movement was the one line of colonial policy which they understood. Hence their resoluteness in its defence. In none of the colonies was defence more needed or more difficult than in Demerara and Essequibo.[2]

The Dutch System in Demerara in 1803

The capitulation in 1803 guaranteed the existing institutions. This guarantee is the keynote of the period, for the professed maintenance of the old institutions in all the new colonies was the consistent policy of the government at home. At first a war measure, it was confirmed after the peace, and no difficulties could drive the Colonial Office to abandon it. Against this policy James Stephen protested in 1831.

"I cannot help thinking," he noted on a despatch, "that the doctrine which assigns present validity to the capitulation involves an inconsistency. . . . I think it better at once to throw them overboard, than to resort to a specious reasoning which will be accused of subtlety and evasion, in order to show that we are observing the terms of capitulation, while we in fact do everything which they forbid." [3]

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[1] H. MSS. C. *Bathurst MSS.*, p. 413.

[2] A consideration of the difficulties that faced English administrators in enforcing amelioration even in Demerara (and much more in the old West India Colonies) tempers criticism of the delay in carrying through the programme of the humanitarians. It is hardly an exaggeration to say that the personal enfranchisement of the slaves meant the political disenfranchisement of the planter.

[3] Draft No. 54 to Sir Ben D'Urban, 1 October, 1831. C.O. 111/116. The draft is annotated in pencil. The notes are unsigned, but appear to be by Stephen.

But the advice was of little avail. The despatch was sent with the old principle reiterated, and the bolder course was not adopted until the time when as "Mr. Over-Secretary Stephen" his opinion was law.

The policy, though well-intentioned, involved, as Stephen said, "a thousand absurdities." Whatever the rights of colonists under the old régime, no matter if imperfectly defined or understood, if British governors and British settlers imported into them ideas wholly alien to their meaning, they must be continued under British rule. All questions were decided on the difficult basis of precedent, which could be found, as might be expected, to justify both sides.

According to the capitulation, the colonists were to have their "laws and usages," their "mode of taxation," and "the public exercise of their Religion." The "Court of Policy" was recognised as "the Legislature of the Colony," without whose consent "no new establishments" should be introduced. If the interpretation of the terms involved difficulties, it was to be "construed in the sense most favourable to the Colony." [1]

On two points the anticipation of difficulty was justified. What was implied when the Court of Policy was spoken of as "the Legislature [2] of the Colony," and what was meant by the existing "mode of taxation"? In 1831, when the constitution of British Guiana was formally established, an official answer was given for the first time to these questions. The Court of Policy was given a properly defined power of legislation and the mode of taxation was laid down. The answer given was not as yet definitive. Two years had to pass before on the first point the ruling was accepted: and after three years the ruling was in substance reversed on the second. The principles of 1831,

[1] The terms are in C.O. 111/5. They are printed in *Parl. Papers*, 1848, XXXIX.

[2] The Dutch phrase is elsewhere translated "the Law-making authority."

nevertheless, were those on which later development was based, and they came to be regarded as applying to all the "new colonies" of the period. Here lies, then, the political importance of the struggle from which they were evolved.

In 1803 the most important of the political institutions of the colony was the Court of Policy whose position was safeguarded by the Capitulation. Originating in Essequibo, the system had been extended to Demerara, and now since 1789 one Court of Policy meeting in Demerara served both settlements.[1] It was in the main a deliberative body, with the duty of maintaining local order and issuing local ordinances, but bound nevertheless "to conform to the directions and Regulations issued and made by authority in the parent or governing state."[2] It was the adviser of the Governor in political and financial matters and shared with him the duty of "carrying into effect the orders that shall have emanated from home in the administration of the affairs of the colony." The Governor was *ex-officio* President, as he was of all courts and colleges in the colony. In 1803 there were, in addition to the Governor, three *ex-officio* members: the Commandeur of Essequibo (virtually deputy-governor in Essequibo), and the two Fiscals (the heads in the two provinces of the police and penal system). In addition to these, there were four "colonial members," two from each province, representing the interests of the

[1] In 1789 a reorganisation took place under a scheme for reform known as the "Plan of Redress." C.O. 111/41, pp. 1, etc. The scheme is printed with several other documents relating to the constitutional development of British Guiana in *Parl. Papers*, 1848, XXXIX. "*Papers relating to the Constitution of British Guiana.*" See also Hume Wrong: *Government in the West Indies* (1923), pp. 114–23, for a short account of the constitution of the colony; and, for this and other aspects of the history of the colony, P. M. Netscher: *Geschiedenis van de Koloniên Essequebo, Demerary en Berbice* (1888); and J. Rodway: *History of British Guiana* (3 vols., 1891–4). See also articles by Dr. G. C. Edmundson in *E.H.R.*, 1901, 1903, 1904, and in *Trans.*, 1923.

[2] Report on the constitution of Demerara and Essequibo by Governor Beaujon in 1799 (C.O. 111/3, enclosure in letter dated 7 July, 1799). Cf. Report sent home by Sir W. Myers in 1804 (C.O. 111/5, enclosure and letter dated 30 Sept. 1804), drawn up by Allen Dalzell.

planters. Official and unofficial members were thus evenly balanced, the Governor possessing a casting vote. But, as the other official members were appointed to their offices by the home government, they were not wholly under the Governor's control. He could suspend them provisionally, but the final decision in all cases of disagreement lay at home. The Governor's authority in the Court, on the other hand, was increased by the fact that his previous consent was necessary to the introduction of any measure. When his consent had been given, if the Court approved the measure, he was helpless, for he had no right of veto. Upon the Court, the Governor was dependent for part, but not all, of his salary (generally for about one-third), as also were other officers in the colony. The working of the constitutional system depended upon the co-operation of the Governor, his subordinate officials, and the representatives of the colonists.

Second in importance were the Courts of Justice. Of these there were two, one for each settlement. They exercised civil and criminal jurisdiction, subject to " Regulations for the Administration of Justice " prescribed from home.[1] The Courts acted as advisers to the Governor in judicial matters.

The Courts consisted of the Governor (or in Essequibo the Commandeur) as President, and six members chosen from the inhabitants. In 1803 a Vice-President had been appointed in Demerara to relieve the Governor of his judicial duties. The colonial members of the Courts of Policy and Justice were all elected in the same way, by indirect election. In each province there was a College of Electors or Kiezers, a body of seven persons chosen by those inhabitants who were proprietors of land and possessed at least

[1] Civil Justice was based on resolutions of the States-General of 4 October, 1774, Criminal Justice on ordinances passed by that authority and by the Court of Policy at various dates from 1570. See enclosure in Sir W. Myers' letter of 30 Sept. 1804, C.O. 111/5. There was no system of jury. The Regulations of 4 October, 1774, were printed in 1805 and a copy exists in C.O. 111/6, among the " Miscellaneous " papers.

twenty-five negroes.[1] The Kiezers chose for each seat in the Courts two candidates from whom the Court itself chose one. The Kiezers held office for life; the colonial members of the Courts of Policy and Justice for two years only.

The constitution here outlined had been established under the rule of the Dutch West India Company in 1789. Two years later the Company lost control of the Colony, but the States-General continued the system of government unchanged. In these years of resettlement, however, a new institution came into being, whose position was already established by 1803. During the last few years of the rule of the Company there had been difficulties in the Colony over finance. The resources of the government were divided between two funds, the Company's (later the Government) and the Colony Chest.[2] The first was supplied by certain traditional taxes, and was wholly under official control. The Court of Policy and the colonists had no say in the expenditure. In theory it supplied all the ordinary needs of government; but in fact these could be met only by regular assistance from the second or Colony Chest. Originally a special grant by the colonists for exceptional expenses, the budget of the Colony Chest had become a regular part of the financial system. The Colony Chest was under the control of the Court of Policy; but the colonists had long been dissatisfied with the measure of their control through the Court, and in 1793 they secured from the States-General in Holland a recognition of their right to have more extensive representation for financial purposes. Instructions to the Dutch Governor suggested that "a greater number of colonists, for instance the College of Kiezers," should be added to the Court for the business of the fund:

[1] Details as to the franchise and method of election were set out in the *Plan of Redress* of 1789, C.O. 111/41, pp. 1, etc.

[2] Full details as to the two chests are given by Sir W. Myers (then administrating the government) in a despatch of 30 Sept. 1804, C.O. 111/5. The two chests had separate Receivers: the Receiver of the Government chest was appointed from home, of the Colony chest by the Court of Policy.

and in 1795 an experiment was made on these lines. The next year, however, another experiment was made. Instead of the Kiezers, who, since they held office for life, did not very closely represent the people, six colonists were elected separately to act as Financial Representatives. They were elected on the same franchise as the Kiezers, but held office for two years only. They were to meet the Court of Policy every year, and deal with the raising of taxes and the examination of accounts. Every year from 1796 to 1803 this meeting of what was called the Combined Court took place, and as an ancient practice this was continued after the setting up of British rule.

In 1803 the Combined Court and the Courts of Policy and Justice were established institutions: the only source of difficulty was the extent of their powers. If the Court of Policy had, it was certain, the power of issuing ordinances, it was not so certain that this nullified the claim of any other authority to do the same. For the transmission to the colony of ordinances from home, there were indeed few precedents in the Dutch period, but perhaps these sufficed to prove their validity. So also with the Combined Court. It was certain that control over the Colony Chest extended to the levying of taxes, but it was not clear whether it included the appropriation of supplies. The annual estimate had always been drawn up by the Court of Policy, but in the years 1796 to 1803 it had been submitted to the Combined Court, and this might be taken to imply a right of determining expenditure. To proceed on the lines of maintaining ancient practices was bound to lead to assertions and counter-assertions as to the customs of the past. And this indeed was the difficulty underlying all the conflicts to which successive Governors were subjected.

Anglo-Dutch Rule, 1803-12

In 1803, when British rule over Demerara properly begins, a former Dutch Governor was placed in control. This was Anthony Beaujon, who had taken over the govern-

ment in 1795 and had been retained in it after the surrender to the British in that year. At Amiens he was dispossessed, the new Holland preferring a less conservative representative in the colony. His second period of rule was short, for he died only two years after the capitulation. He was succeeded by another Hollander, William Bentinck, who like Beaujon was a member of the Dutch party of the old régime. Of this group the most prominent member was the Fiscal of Demerara, Van Berckel,[1] with whose career the history of the colony during this period is closely associated. As Hollanders, they owed their allegiance to the old Holland, and not to the new France-ridden state. There was in the colony a revolutionary party as well, strong enough in 1795 nearly to succeed in "new-modelling" the government,[2] and this party under its leader Meertens [3] had been in power between Amiens and the capitulation. The third group consisted of the British planters and merchants, who were already numerous in Demerara, and were to increase rapidly in the first years of British rule. To keep clear of local faction was no easy task, and the administration at home thought that Bentinck had failed. They recalled him in 1812, disapproving equally of his colonial complacency and his financial extravagance.[4] They learnt to appreciate his difficulties, and in fact he had done good work. To these Dutch Governors, Bentinck and Beaujon, was mainly due the loyal acknowledgment of British rule by the colonists.

The credit is due wholly to the Governors and their

[1] Van Berckel's history as leader of the Dutch party is given in C.O. 111/11, Bentinck to Liverpool, No. 16, 6 July, 1811.

[2] C.O. 111/3. Petition of "The Proprietors of Lands in Demerary . . ." 1795. The attempt was defeated only by "a considerable number of the British Inhabitants," standing forward in support of the Government.

[3] According to Acting-Governor Carmichael this party was still powerful in 1812. C.O. 111/13, letter of 8 Sept. 1812.

[4] C.O. 112/4, pp. 195-205. Despatch to Bentinck 25 February, 1812. Cf. Rodway, *op. cit.*, II, pp. 198–9.

Bentinck had sinned in the issue of a proclamation as to slaves which greatly offended the ideas of humanitarians at home. C.O. 111/12, Bentinck to Liverpool, No. 36, Feb. 1812.

subjects, for at home it was a period of almost total neglect. An administration, burdened with the Napoleonic War, distracted by the humanitarian agitators and by the conflicting outcries of trading interests, had little attention to spare for the internal concerns of colonies. The same Secretary of State had charge of war and colonies alike, and the years 1803 to 1812 saw frequent changes in personnel.[1] At last in 1812 the Colonial Office found a more lasting chief, when Bathurst started his fifteen years at its head. But by that time the doctrine of inaction had been firmly established, and little attempt at constructive policy was made. In 1811 Governor Bentinck complained that six years of rule had not brought him a single answer to his despatches [2]; and in such circumstances the Governors, here and elsewhere, had to rely on their own judgment. To keep the colony quiet, retaining its ancient practices and institutions, was one duty: to keep it loyal by encouraging British settlers the next: above all they had to enforce the abolition of the Slave Trade, and to meet the demands of the humanitarians for the improvement of slave conditions. It was no easy task: and combined with exhortations to economy it was nearly an impossible one.[3] Bentinck was only partly successful. In 1811 he had to dismiss Van Berckel from office.[4] In 1807 had tried to assert his authority by a dissolution of the College of Kiezers.[5] In 1810–11 he was

[1] The Colonial Secretaries of the period were 1801–4, Hobart; 1804–5, Camden; 1805–6, Castlereagh; 1806–7, Windham; 1807–9, Castlereagh; 1809–12, Liverpool.

[2] C.O. 111/11, Bentinck to Liverpool, 16 June, 1811. The first answer to any of his despatches is dated 14 Aug. 1811. C.O. 112/4, p. 169. This was on one point only—the application for leave of absence: notice of other matters starts on 15 October.

[3] Upon financial matters the eagerness of the home government, although natural enough in time of war, amounted almost to sharp practice. In 1810 an attempt was made to secure the transmission to the Treasury of balances remaining in the King's chest. C.O. 111/11, Bentinck to Liverpool, No. 23, 4 Nov. 1811. Bentinck successfully opposed this. A transmission had been made earlier by Beaujon in 1801, but under protest. C.O. 111/4, Beaujon to Duke of Portland, 10 Feb. 1801.

[4] C.O. 111/11, Bentinck to Liverpool, No. 16, 6 July, 1811.

[5] C.O. 111/7, Bentinck to Windham, No. 17, 10 April, 1807.

contending with a vigorous demand for a constitutional change.[1] His sudden recall in 1812 left to his successor the work of dealing with several measures only half started. The administration must be made more economical; the distribution of justice more efficient: the English language should take the place of Dutch as the official language of the colony: the authority of Kiezers and Financial Representatives must be defined. Already at the time of his recall, Bentinck had made schemes for some of these. As far back as 1799 it had been suggested that the Courts of Justice of Demerara and Essequibo should be united, thereby saving the expense of "the whole establishment of Essequibo." Hobart, as Secretary of State, had authorised this change in the time of Beaujon[2]; and Bentinck had defended it on the ground that it had the support of "the most respectable Part of the Community" in Essequibo.[3] At the end of 1811 authorisation for this change was sent anew to Bentinck, and Liverpool decided that it should be accompanied by the separation of the office of President of the new Court of Justice from that of Governor, and the substitution of English for Dutch as the language of the Court.[4] All this Bentinck was preparing to effect[5] when his notice of recall came in April, 1812.[6]

The Carmichael Reforms, 1812–13

When Bentinck was recalled, Major-General Carmichael was instructed to take over the government. He was commanding the military forces in the colony, and had had a distinguished military career: but it would have been hard to find anyone less fitted for the task of rule. He was only

[1] C.O. 111/41, No. 20, Meeting of Combined Court, 4 Dec. 1810. No. 21, ditto, 1 May, 1811.

[2] C.O. 111/9, Bentinck to Liverpool, No. 11, 30 Aug. 1809.

[3] *Ibid.*

[4] Draft to Governor Bentinck, 21 December, 1811, C.O. 111/11. All these changes had been urged by Bentinck.

[5] C.O. 111/12, Bentinck to Liverpool, No. 4, 6 Feb. 1812; and No. 9, 21 March, 1817.

[6] C.O. 111/12, ditto, 7 April, 1812.

forty-six, but his services had worn away his health, and the thirteen months of his administration ended in death. Much of that period was spent in illness, so great that the writing of despatches was beyond his strength, and such despatches as there are, give, by their thin wavering signature, little impression of the firmness of purpose that marked him. No doubt his illness accounted for much: for his feverish haste to get things done, for his complete distrust of all those who might have helped him with advice.[1] But he had other qualities which also contributed to the result. When opposed in his reforms he thought it his duty "as a British officer to make the same . . . answer . . . (as) to an open enemy in the Field." Maintenance of authority he felt to be his first duty; maintenance of the British ascendancy the next. Before opposition, as he said, his motto was "*Nec aspera terrent.*" Opposition indeed only strengthened his purpose to go on. His patriotic fervour was responsible for another feature. He had a great reverence for the British Constitution. It was the "purest of all Governments": the British Parliament was "the most perfect of all models of Legislation." The work of a reformer, as he conceived it, was to make the constitution as much as possible like that of Britain; for the nearer it came to that . . . "the more it will approximate the zenith of human wisdom." These characteristics combined to produce the curious result of a greater measure of popular control forced on the colonists in great haste with no regard for popular approval.

It must be acknowledged, nevertheless, that Carmichael's position was a hard one. The Secretary of State had written urging reforms on the 21st December, and at the beginning

[1] His successor, Murray, said that he would not even let his Secretary see his despatches, with the result that none of them were properly entered. Notes of some of them existed on odd scraps of paper: and all his papers, public and private, were "scattered over different rooms in indiscriminate confusion." C.O. 111/16, Murray to Bathurst, No. 1, 24 May, 1813. Carmichael himself reports that he acted without advice, C.O. 111/13, Carmichael to Bathurst, 23 October, 1812.

of February had superseded the Governor who had put them in train. When Carmichael took over temporarily the administration, he was told that until his successor should arrive, "it is not advisable that any material alteration should be made in the general system of the government." He might enquire into abuses and apply "immediate correction," but general changes should be delayed. Yet obedience to this was impracticable. He took over the government on the 6th April, and on the 13th it had been arranged to set on foot the work of uniting Demerara and Essequibo by the fusion of the Colleges of Electors and the establishment of a new Court of Justice. It seemed impossible to stop short now. Carmichael therefore had to do something: and he decided characteristically to do much. He did not continue Bentinck's scheme, nor hold it over for his successor: he substituted one of his own. It was far more revolutionary than anything that had been planned by the cautious Bentinck.[1] It disregarded completely the instructions against change. It set out to achieve the two objects which Carmichael thought it his duty to secure, the maintenance of British domination in the colony, and the closer assimilation of the constitution to that of Great Britain. In the first he was largely successful: the British settlers, although not monopolising political power, secured the "ascendency" which, he said, should be theirs "in every colony where the British flag flies." In the second he was much hampered by ignorance. His memories of an early study of De Lolme gave him a vague and faulty idea of what the British constitution was.[2] His knowledge of the constitution of the colony he had to pick up for himself, since he refused to seek or accept advice. In any case, although Carmichael thought to the contrary, the dissimi-

[1] Carmichael states himself that this is why he adopted it. Bentinck's plan left things too much as they were, C.O. 111/12, Carmichael to Liverpool, 3 May, 1812.

[2] Cf. Carmichael's speech to Combined Court, 18 Nov. 1812, C.O. 111/41. "The People chose the Parliament from whom were selected the nobles comprising the House of Lords."

larity of conditions was in reality so great that the attempt at imitating "that beautiful edifice" was absurd.

And so without delay he started the work of change. He united Demerara and Essequibo, taking care that the new Court of Justice should be predominantly British. He dismissed the College of Kiezers, on the charge of "party spirit"; and instead of calling for an election on the old lines, he created a new constitution. The electoral franchise was extended to all persons paying income tax on 10,000 guilders. To the votes of landholders were now added, therefore, those of the "learned professions and commerce," comprising chiefly the new English population. Incidentally he enfranchised women. The Kiezers elected on the new basis were to hold office only for two years: they were to act also as Financial Representatives. Lastly, as if these changes were not enough, he gave to the Combined Court complete recognition of their financial powers, including the appropriation of supplies. He seems to have thought that the Combined Court was in the position of a House of Commons, and the Court of Policy a House of Lords: and so the "beautiful edifice" was reproduced.

The changes were complete by the end of November, when Carmichael had only six months to live. He was ill most of this time and the difficulties of the American War fully absorbed such strength as he had. It was left to his successor to see the consequences of what he had done.

The English Interpretation: Governors Murray and D'Urban

The new Governor whom Bathurst appointed was again a distinguished soldier, Major-General Murray, already experienced in the government of Berbice. He was a man of ability and zeal: a hard-working administrator, anxious for conciliation. If he was not always successful in avoiding friction, the difficulty of his task must be remembered in his favour. The Colonial Office at home seemed persistently unwilling to consider problems submitted from the colony.

Of colonial policy they had plenty: it embraced the slave trade, and slave amelioration, the enforcement of the Navigation Acts, and diplomatic negotiations with other colonising powers.[1] But for local problems they had no attention. Their ignorance of local conditions was great.[2] They were bent on their own objects, and left all others to the man on the spot, disregarding his requests for instructions. It is hardly strange that English Governors, struggling alone with problems of which they knew little, failed to satisfy all parties in the colony, and that the colonists, both English and Dutch, developed claims for autonomy as great as those of the colonists of the old Empire.

The eleven years of Murray's rule saw a number of difficulties for him as Governor. The Dutch system contained many pitfalls for a ruler unversed in Dutch methods, and the recent changes made the position far worse. The colony indeed seemed full of dissensions. Ecclesiastical administrators struggled with Governor and Court of Policy over the Poor's Fund.[3] The Governor himself disagreed with successive Presidents of the new Court of Justice: the Courts of Policy and Justice struggled over patronage. The Court of Policy frequently failed to approve the line of action taken by the Governor, and questions of finance brought repeated strife in the Combined Court. Behind all the difficulties lay the ever-present fear of negro revolt,

[1] A convention with Holland of 13 August, 1814, provided for the sale to Britain of the Guiana settlements, F.O. 93 Holland $\frac{2}{2}^{6}$. Subsequent negotiations were necessary on the question of naturalisation and with reference to Dutch mortgagees of lands in the colony.

[2] E.g. in 1829 it was required that the Catholic Relief Bill should be declared locally operative in every colony, despite the fact that in many, as in Demerara, there were no Catholic disabilities to relieve. C.O. 111/69, No. 3.

[3] For the history of the Poor's Fund, see C.O. 111/40. Enclosures in Murray to Bathurst, No. 240, 20 May, 1823. The Poor's Fund was organised by regulation from the States-General in 1792 as a system for administering Poor Relief. It was reorganised by ordinance of the Court of Policy in 1816. Stephen in 1822 expressed doubt as to the validity of the ordinance since it was a repeal of a law made by the States-General of Holland. C.O. 111/43, Stephen to Horton, 24 Dec. 1823.

culminating in the so-called revolt of 1823. The colony indeed showed most clearly the danger of divided sovereignty. No authority was absolute, save that of the administration at home, to whom the Governor too often appealed in vain. The principle of maintaining ancient practices gave infinite scope for disagreement, and made appeal to some independent tribunal the only end to the disputes.[1]

The real difficulty lay in the antithesis between Dutch forms and English ideas. Thus the members of the Combined Court assumed that their control over finance, if it existed at all, must be as absolute as that of the House of Commons. And the Court of Policy, if it forbore to state it in principle, acted in practice on the view that, being an executive Council of Advice, it could advise upon all branches of government. The Governor, as representative of the Crown, felt himself responsible alike for political and judicial administration, and this view conflicted with the spirit of the Dutch institutions of the colony. The judicial and political spheres were distinct, for the Court of Justice (not the Court of Policy) was the adviser in matters of justice. The power over finance was shared by the Governor, the Court of Policy and the Combined Court. Between the black-letter of Dutch precedent and the English ideas newly brought into the colony there was no possibility of agreement.

In 1824 the home government recalled Murray, and sent out Sir Benjamin D'Urban to succeed him, without giving any instructions for settling the local disputes. Like Murray and Carmichael, D'Urban had mainly military experience,

[1] E.g. in 1815, and again in 1820–1, Murray referred home the disputes with the President of the Court of Justice (C.O. 111/20, No. 43 of 19 Oct. 1815. C.O. 111/25–34, *passim*).

So also in 1820 Murray made the first of many reports on the difficulties of financial control (C.O. 111/29, Letter of 30 March, 1820. Cf. Letters of 19 April, 1823, C.O. 111/37, No. 237, enclosing volume of evidence; C.O. 111/41, and letters from D'Urban of 4 June, 21 Sept., 1824; 6 Feb., 27 April, 1 Sept., 1825; C.O. 111/44, 45 and 49).

And in 1823 Murray referred home the question of the Poor's Fund (C.O. 111/40, Letter No. 240 of 20 May, 1823).

but he had learnt something of the difficulties of colonial control as Governor of Antigua. A stronger man than his predecessor, little daunted by party spirit within, or by disapproval oversea, he preferred to risk rebuke rather than endanger the colony. And to him is due in large measure the peaceful character of the revolution.

Four main problems faced D'Urban. There was the question of financial control; and that of the extent of local legislative powers; there were the problems arising from the new movement for slave amelioration; and the question of union with Berbice. Local control of finance and legislation had long been under discussion. Murray had convinced Bathurst in 1825 that the financial claims of the Combined Court could not be allowed. James Stephen in 1826 had expressed his agreement. Yet nothing was done. In the same way a definition of legislative powers had been promised, arising from Murray's difficulties over the Poor's Fund. In the case of that fund, however, an Order in Council had actually been issued, and in it the control of the Crown over legislation had been asserted. Subsequently, in December, 1824, another order drafted by Stephen had given temporary sanction to the acts of the Court, pending a more regular definition. But the definition was slow in coming, and the discontent in the colony might well have worked itself out had it not been for one factor. The principle of legislation by Order in Council was indeed disliked: for it was held to be contrary to the claims of the Court of Policy as asserted in the terms of the capitulation. But agitation over the abstract question of right might soon have died away, had not a practical matter suddenly made the question acute. For the home government proposed to use this newly revived instrument, the Order in Council, to force new measures of slave amelioration on the colonists. Now over the issue of such an order the Court of Policy had no influence at all. Hence the persistence of the government at home and the prolonged opposition in the colony. It is unquestionably this struggle

which gives importance to the more abstract problems of political right.[1]

Slave Amelioration

A new phase of the anti-slavery movement had begun in 1823, when Canning declared the policy of the Home Government by moving his famous resolutions upon slave amelioration in the Commons (15 May). On the 28th May Bathurst sent a copy of the resolutions to Governor D'Urban, and on the 9th July a circular letter was sent to all the West India Colonies. In the case of those colonies, which, as Canning had said, " had happily no legislatures," Bathurst added a warning that " it will not be requisite to apply to Parliament for the purpose of enforcing the measures which I have recommended . . . For . . . it is competent to His Majesty's Government (and it will be expected from them) to issue an Order in Council . . ." Demerara as well as Berbice received such an additional letter, although the Court of Policy was in the first instance to have opportunity to adopt the measure as an act of their own. Bathurst thought that the amelioration would come better from the Court of Policy, but he held the alternative method in reserve and was careful to state that the opportunity given to the Court implied no recognition of their legislative claims.

In other new colonies, unhampered by Courts of Policy, the carrying out of Canning's resolutions, in the letter at least, was rapidly accomplished. An Order in Council, based on a draft sent from the colony, was issued for Trinidad on 10th March, 1824, and a copy sent to Demerara. Bathurst added that in imitating Trinidad, D'Urban would receive doubtless " the cordial assistance of the Court of Policy."

[1] It is noteworthy that James Stephen, who was largely concerned in the political argument, was a member of a family closely connected with " the saints."

These hopes were only in part realised. The Court of Policy wanted in the first place to enforce the new code by an act of its own and not by an Order in Council, and, as soon became clear, it wanted modifications of the code itself. In striving to gain both ends, it failed to achieve either. For the deficiencies of the local enactment had to be remedied by an Order in Council of February, 1830; which thus overrode the Court of Policy at two points. The result was a constitutional struggle for the next two years, which was mainly concerned with the validity of this order.

Union with Berbice

The official decision on the question of legislation and upon the conflicting claims in finance reached the colony at the same moment that another change was accomplished. Until 1831 the government at home, while enforcing in practice its claim to legislate by Order in Council, had not fulfilled the promise of 1824 to define the legislative power of the Court of Policy. Nor had it settled the equally difficult question of the Combined Court. Both in fact were held back until the completion of the necessary preliminaries for uniting Essequibo and Demerara with Berbice, in the new colony of British Guiana. For this new colony a constitution was to be prescribed that would solve the constitutional problems of Demerara.

In Berbice, the third Dutch settlement surrendered in 1803, the problems of administration were only in part similar to those of Demerara and Essequibo. There were, it is true, problems arising from the relations between Dutch and English, a strong protest being raised when the Dutch language was superseded by English in the Courts in 1811. There were, further, difficulties between Governor and Judicial President, and between Governor and the Court of Policy, known after 1817 as the Council of Government. But the Council of Berbice had very little of a popular flavour. In 1803 it was, as had been laid down in the

Charter of 1732, mainly a co-optative body.[1] Then the difficulties with the Governor led in 1817 [2] and 1826 [3] to the passing of Orders in Council reorganising it, in the direction of still less freedom. For the share of the Governor in appointment was increased in 1817 and appointment by the Governor alone became the rule in 1826. In finance, too, the problems of control were less difficult. The Charter of 1732 prescribed the taxes to which the colonists were liable, and the Council of Government had only slight influence on their enforcement. In matters of expenditure, it is true, they acted as advisers to the Governor, but there was none of the contest which marked British rule in Demerara.

The problem in Berbice did not turn upon a constitutional dispute but upon a financial deficit. Governor after Governor struggled vainly to square the expenditure with the revenue. Bentinck, who was Governor from 1814 to 1820, was probably not responsible for the position in Berbice, although he had incurred reproof for his extravagance in Demerara. The taxes levied by the Charter of 1732 had proved insufficient before the time of British rule: and financial crises had occurred in 1796 and again in 1803, on the eve of the two surrenders to the British. On both occasions the situation had been met by an issue of paper money, and a resulting debt was still further increased by similar issues under the British.[4] The threat of a new issue in 1828 determined the home government in favour of the Union of Berbice with Demerara.

The union was unpopular in Berbice; but it had long been suggested by Demerara. The financial question was the determining factor, but the government also reckoned that union would facilitate legal reform, and would diminish

[1] For each vacancy the Court submitted two names to the Governor, and he selected one of them.

[2] P.C. 2/199, pp. 433–5. Order dated 31 May, 1817.

[3] P.C. 2/207, pp. 2–6. Order dated 30 January, 1826.

[4] For an account of this debt, see letter from Horace Twiss to J. P. Stewart, 26 Aug. 1820. C.O. 112/14.

those dangers of party spirit "which beset small states."[1] The plan had been decided by 1828, its enforcement was delayed until 1831 by the frequent changes at the Colonial Office.

Lengthy discussion arose as to the method of effecting the change and as to the character of the constitutional pronouncements that should accompany it. They were involved with and affected by a comprehensive scheme of government applicable to all the "Crown Colonies,"[2] recently devised by Horace Twiss and frowned upon by Stephen. Horace Twiss, who appears here as the author, had lately succeeded Robert Wilmot-Horton as Parliamentary Under-Secretary. Though eminent as a lawyer and renowned as a wit, he had little of his predecessor's knowledge of colonial affairs, and was obsessed by a desire for general uniformity, without much regard for special conditions. His scheme took the form of a "General Order (in Council) whereby the Councils and Elections of the several Crown Colonies are instituted and regulated." This was to be applied to British Guiana by a "Special Order," which served also to unite Berbice to Demerara and Essequibo, and to redeem the public debt of Berbice.[3] The general scheme embraced the "entire abolition of all Political Institutions; Executive, Legislative and Representative:" and the substitution for them of a new system, which was to be identical in all the seven "Crown Colonies."[4]

Stephen's letter of criticism[5] is of great interest, for it throws light on the constitutional ideas of the Colonial Office, now feeling its way towards a definition of the Crown Colony system. He objected to this scheme, not only in

[1] Goderich to D'Urban, No. 1, 18 March, 1831. C.O. 112/15.

[2] Twiss and Stephen here use the term to signify the colonies conquered in the Napoleonic Wars.

[3] The draft of this "special order" is in C.O. 111/115 under head "Memoranda." It is endorsed "This to be sent to Mr. Stephen." I have not been able to find the text of the "General Order."

[4] I.e. Trinidad, St. Lucia, Mauritius, the Cape of Good Hope, Ceylon, Demerara and Essequibo, and Berbice.

[5] It is in C.O. 111/98 amongst miscellaneous papers relating to the constitution of Demerara and Berbice.

most of its details, but because he doubted the desirability of uniformity. He had always held " that some unity of system in the internal government of these colonies is highly desirable," but he deprecated a " perfect identity. It is difficult to imagine any two Civil Societies more remote from each other in character than those of St. Lucia and the Cape of Good Hope. . . . Between Mauritius and Demerara the distinctions, though less marked, are of great magnitude. . . ." Any general system, therefore, must be modified to suit the particular requirements of each case. " Much surely should be left on a question so delicate as this to decision and management of your agents on the spot." " Had I," he adds, " the understanding of Jeremy Bentham himself I should distrust my own judgment as to what is really practicable in such remote and anomalous Societies." [1]

Twiss seems to have made some effort to answer the criticisms of Stephen,[2] but the scheme was abandoned. The Colonial Office fell back on the view of Bathurst and Horton that all change should come in the form of a reversion to ancient institutions.[3] Against this extreme Stephen also raised objections, approving the ideas but opposing the form of the change. In this he was overruled, but aided by the Law Officers of the Crown, he prevented the change in the colony from being carried out by an Order in Council. It was to be introduced by the less formal instrument of a new Commission and Instructions to Sir Benjamin D'Urban.[4]

[1] Stephen further pointed out that although the Capitulations " are not to be understood in such a manner as to prevent useful and necessary innovation," they made it essential that the necessity should " be clear and the utility undesirable, to justify a change in fundamentals."

[2] Stephen's letter is interlined with pencilled replies to the criticisms made.

[3] The matter was the subject of a correspondence between Stephen and Horton in 1826. Here the plan of reverting to the old system is spoken of as the result of a decision of Lord Bathurst. Stephen then agreed. C.O. 11/58, James Stephen. Letter of 5 December, 1826.

[4] C.O. 111/118. Letter from Attorney and Solicitor-General to Lord Goderich, 2 February, 1831. Stephen had expressed his preference for this method in 1826, C.O. 111/58, James Stephen. Letter of 5 Dec. 1826.

The Commission passed under the Great Seal on 4 March, 1831,[1] and reached D'Urban, together with his instructions,[2] on 18 June. He promulgated the new Government in July.[3]

The separate colonies of Demerara, Essequibo and Berbice were thus replaced by British Guiana. The constitutional system of Berbice was abolished and that of Demerara extended over its territory. The Court of Policy, enlarged to contain representatives of Berbice, was given the power of legislation which had been disputed, but the right of the Crown to legislate by Order in Council was reserved.[4] The system of Kiezers and Financial Representation, the elective franchise, and the regulations for the control of finance in the new colony were to be established on the basis held to have existed in Demerara and Essequibo before the reforms of Carmichael. Provision was at the same time made for the extinction of the Public Debt of Berbice. The change was further to be accompanied by a reorganisation of the judicial system by an Order in Council passed on 23 April, 1831, based on the findings of the Legal Commissioners of 1824–6.[5]

The Establishment of the New System

The settlement of 1831 was in most of its details purely temporary in character. Stephen was right when he said that the pretence of restoring ancient institutions involved

[1] The Commission is in Pat. Roll. I W. IV, Part 22, No. 8. It is printed in *Parl. Papers*, 1848, XXXIX.

[2] I have not been able to find a copy of the Instructions. Extracts from them are printed in *Parl. Papers*, 1848, XXXIX.

[3] The delay was caused by his wish to publish at the same time the Order in Council regulating the judicial system. This did not arrive until 14 July. C.O. 111/116, D'Urban to Goderich, No. 5, 1 Aug. 1831.

[4] "... We do hereby reserve to ourselves our heirs and successors our and their undoubted right and authority ... to make and establish from time to time with the advice and consent of Parliament, or with the advice and consent of our or their Privy Council, all such laws as may ... appear necessary."

[5] The effect of this Order was to put the administration of justice in the hands of trained judges, more fully restricting the system of colonial representation in the Court.

" a thousand absurdities." One indeed it seems incredible that the Colonial Office should have overlooked. The electoral franchise, as restored in 1831, was based on the possession of 25 negroes, yet English administrations had openly proclaimed for eight years that the end to which they were working was the freedom of all the slaves. Moreover, the restoration of the old system revived the endless disputes and difficulties as to its character.

The difficulties and disaffection thus aroused are of more than local or particular interest. For the appeal made to Goderich as Colonial Secretary resulted in a decision of a general importance. In 1832 he made a definite pronouncement on the whole policy of crown colony control, and on the reasons that had led to its adoption. He asserted without qualification the right of the Crown to legislate by Order in Council in all conquered colonies. He declared the view, that naval officers concluding a capitulation could thereby barter away the prerogative of the Crown, to be absurd. If the right had not often been exercised it was because " the state of war [had] diverted the attention of the British Government " to other matters. As against " certain fixed principles of constitutional Law " the capitulation could not be held binding. It was not the " equivalent of a Charter " nor " a solemn unalterable grant." It should be interpreted as subject to certain " implied qualifications," and any necessary changes would be carried despite it, although they would show " the strictest adherence to its terms which may be compatible with the new character " which the colony by cession had acquired. The terms of the capitulation were in fact rather the material from which the building was constructed than a permanent part of the building itself. An alluring prospect was held out of a future in which the colony should " enjoy every privilege which . . . any other British Colony possesses," privileges to be doled out slowly by the King's government at home. Every deviation from the capitulation had as its only object, it was asserted, " to confer some benefit on subjects in the

colony." In short, the principle was to adhere to the capitulation, except where some adequate reason justified departure from it. And the government at home was to judge of the reasons.[1]

Upon the question of legislative control then, the colonists may be held to have lost their case in 1832. The question of finance was not, however, so easily settled, for the Combined Court had a strong weapon in the power to refuse supplies, and they made use of this expedient to emphasise their claim in 1832. A despatch from the Colonial Secretary of 22 November, 1832, reiterated the assertions of D'Urban's instructions that the Combined Court should deal with supply but not appropriation. But this did not settle the colonial claims. Finally in February, 1834,[2] the Colonial Office gave way. The decision was based upon a compromise. If "permanent provision" was made for the maintenance of Civil and Judicial expenditure "the unanimous desire . . . expressed by the colony" should be "fully and explicitly" conceded. The Colonial Secretary was careful to safeguard the "correctness of the views" of his predecessors, but he granted the colonial claims as of grace. Some years were to pass before the scheme was worked out, but the principle of 1834 was retained.[3]

These principles are indicative of the new period that was beginning in Crown Colony government. The year of the abolition of slavery saw the appointment of James

[1] Stephen would have preferred to assert that the validity of the capitulation ceased when the colony was ceded to Britain. As yet, however, the Colonial Office was only gradually feeling its way towards this attitude. Its adoption by 1835 is suggested by the following references in a despatch from Aberdeen to Sir Lionel Smith: "the Articles of Capitulation *even were they to be considered in force* after the final cession under Treaty . . ." C.O. 112/18/1317, cf. p. 332. How great a revolution this involved can be seen if this view is compared with Lord Mansfield's in 1774. See 20 *St. Tr.*, p. 323.

[2] Stanley to Sir J. Carmichael-Smyth, No. 61, 22 Feb. 1834. C.O. 112/18, pp. 106–8. The abolition of slavery automatically necessitated financial rearrangement in some particulars.

[3] The mission of Sir Lionel Smith in 1835 was sent out with the object of reaching a decision on this matter.

Stephen as permanent Under-Secretary, and the next twelve years were those of his dominant influence. The period saw the development of principles of government on the lines of his letter to Horace Twiss of 1826; that is of some measure of uniformity with allowance for local variations. Crown Colony constitutions, from being anglicised forms of the old French or Spanish or Dutch, were for the most part new-modelled on this basis. The constitution of British Guiana retained many of its old features only because it already met many of the requirements of Stephen's scheme.[1]

In the domestic history of British Guiana the settlement of 1831–3 was not therefore a final one. But even here the principles of future development had been established. Geographical unity, and the bridging of the racial cleavage, made the way clear for the progress of the colony. More important than this is the fact that the peculiar difficulties of those lands had forced a recognition of colonial problems on the administrators at home, and had drawn from them a statement of policy which no subsequent difficulties reversed. British Guiana thus witnessed the working out of a new constitutional system in the nineteenth century: just as in the eighteenth she prepared the way for the overthrow of the old economic policy: and served as a hunting-ground for adventurous projectors in colonisation in the seventeenth. Gedney Clarke and James Stephen may not have the romantic interest of the earlier projectors, but they at any rate made Guiana of more importance in the history of the Empire as a whole.

[1] See the details set out in Stephen's letter of 1826. C.O. 111/98.

THE CATTLE TRADE BETWEEN WALES AND ENGLAND FROM THE FIFTEENTH TO THE NINETEENTH CENTURIES

By Professor Caroline Skeel, M.A., D.Lit.

Early in the Civil War some North Welsh gentlemen addressed to the King a petition, the draft of which is preserved in the National Library at Aberystwyth: [1]

"To the King's most excellent ma'tie. The humble petition of yo'r Ma'ties Loyall subjects subscribed for and on the behalfe of themselues and the rest of the inhabitants of yo'r Ma'ties six counties of North Wales, Sheweth, That the sale of yo'r petitioners' cattle and Welch cottons being the principall and most considerable commodities of these countries, cottons usuallie vented in Shrowsbury and our cattle driven and sould in most parts of England, hath bin and is the onelie support of yo'r petitioners' being and livelihood, among whom there (be) many thousand families in the mountainous part of this countrey who sowing little or noe corne at all, trust merely to the sale of their cattle, wooll and Welch cottons for provision of bread."

The petitioners go on to say that the stoppage of the sale of cattle and cloth through the war prevents the payment of taxes required "for the publique defence against the Rebells" and threatens many with "a miserable famine." They therefore pray that clothiers and drovers may have a safe-conduct and protection to pass freely through the royal armies and enjoy free commerce and traffic as hitherto.[2]

This statement of the importance of free access to English

[1] Sir John Williams' MSS., Misc. Coll. of Letters and Documents.

[2] Compare the permission to trade with London given to the clothiers of Reading in 1643 by Sir Arthur Aston, Governor of Newbury. *V.C.H. Berkshire*, I, p. 392.

fairs and markets may serve to introduce a study of the Welsh cattle trade, which began in the Middle Ages and continues to-day, although with the advent of railways the old-time drover has disappeared. Wales has been always noted for cattle, as may be seen from many references in laws and chronicles, legal cases, wills, accounts and letters. Cattle-thieves[1] were the special bugbear of Bishop Roland Lee, and in later days, when Wales had become an orderly country, such wealth as there was consisted largely in cattle. Sir Roger Mostyn wrote in 1674 to his neighbour Piers Pennant :[2]

"Dear Pyers,

"I hope you will excuse me for asking for the £4 you owe me for the pair of oxen ; but I want the money to make up £20 to send my son to Oxford next week."

It was natural that the surplus cattle of Wales should find their way to the rich feeding-grounds of England, in the Midlands, Essex and Kent. The cattle trade of Wales with England has been mainly in store cattle, that is, lean animals from six months to three years old, intended for fattening. Their colour has varied. Possibly the great majority of those sent to England in the seventeenth and eighteenth centuries from North and Mid-Wales were black, but many of them were by no means of a pure black. The Glamorgan cattle were mainly red or brown, with speckled, or sometimes white, faces. As early as the fifteenth century there were red cattle with white faces in Glamorgan representing no doubt what was the common breed of south-east Wales and the adjoining English counties. The modern Hereford breed (red colour) is quite as much Welsh as English in origin. There was once a breed in Pembrokeshire known as Castle

[1] Cf. *Journal of Prior William More*, ed. E. Fegan (Worcestershire Historical Society), p. 259 : "reward to a man that browht vij blacke oxen thyff stolen that were seasend a pon at Wolverley beyng conveyd to batnall parke."

[2] *Cymm. Soc. Trans.*, 1822, p. 25.

Martin, mainly black with long drooping horns. These no longer exist as a distinct breed, but have been merged in the breed that is now officially known as Welsh Black, and is valued no less in England than in Wales.[1]

When the Welsh cattle trade with England began cannot be precisely stated. The fact that one of the Welsh words for cattle, "praidd," is derived from Latin "praeda," may well show that cattle-lifting rather than cattle-selling prevailed in early Wales. But by the fourteenth century cattle were frequently bought in Wales for the household of the King or his nobles.[2] In 1312 the Chamberlain of Carmarthen and the Chamberlain of North Wales had to provide between them 700 oxen to be sent up to the Clerk of the Kitchen of the King's household at Windsor.[3] John de Sandale, Bishop of Winchester, sent John de Radynges into North Wales in 1317 to purchase fat cattle for the household of the Chancery.[4] The Clare household accounts studied by Miss Musgrave show that in 1336–7 cattle were bought in Wales at a cost of £53 13*s.* 6*d.* (for 109 head) and sent from Usk to Bardfield in Essex,[5] the expense of their pasture during the eleven days of their journey being £4 12*s.* In the fifteenth century Welsh cattle were drawn upon to some extent for the provisioning of the troops in France. Early in the reign of Henry V we find that 100 Welsh cattle, costing £67 13*s.* 4*d.*, were sent to London, the expense of bringing them being only 3*s.* 4*d.* : 93 more, at a cost of £60, were to

[1] I am indebted for this information to the kindness of Mr. Bryner Jones of the Welsh Department of the Ministry of Agriculture. It should be added that the valuable Welsh Black of modern days is the Large Black, while the old Welsh Black was probably small.

[2] *Chamberlain's Accounts* (Lancashire and Cheshire Rec. Soc., p. 59 (68 oxen bought for the Lord's larder at Abergelowe and Ruthyn and sent to Macclesfield). The word "porthmon" (drover), a loan-word from English, is found in Welsh literature, so Canon Fisher tells me, as early as the fourteenth century.

[3] *Cal. Close Rolls*, Ed. II, 1307–13, p. 292.

[4] *Episcopal Registers* (*Diocese of Winchester*), *John de Sandale and Rigaud de Asserio* (Hampshire Record Society), p. 263 (App.).

[5] *The Household of Elizabeth de Burgh, Lady of Clare* (unpublished M.A. thesis in the Library of the University of London), p. 133.

be killed and salted in London and sent over to Calais.[1] In 1417 a commission was issued to one Nicholas Harwode to take beasts from divers parts of Wales to Southampton for the King's use, and men for their safe-conduct and herbage for them on the way.[2] The household accounts of Sir John Howard record in 1463 a purchase of 33 oxen at Wrexham for £18 7*s*., and a payment of 10*s*. for bringing them to Stoke-by-Nayland in Suffolk.[3] Thus, in the later Middle Ages at all events, the royal lands in Wales and the lands of Marcher lords furnished cattle for consumption in England and France.

The administrative changes in Wales during the Tudor period favoured the development of the cattle trade by putting down disorder in the Marches. Two short Acts passed about the time of the Act of Union furnish some interesting details.[4] Mention should also be made of the draft of an addition to a statute entitled " for buying and selling of Roother (rother) best (*sic*) and cattle made 3 Ed. VI." In future fat cattle were not to be bought up to be resold alive, but the proposed Act was not to prevent licensed drovers from buying cattle in any of the counties of Wales or in twelve specified counties of England.[5] The order of the counties indicates the abundance of cattle in Wales, a point which is illustrated by many casual references, as for example the pages devoted to inventories of cattle in George Owen's commonplace book, *The Taylor's Cussion*. The very numerous documents relating to Wales in the sixteenth century—State Papers, Acts of the Privy Council and so forth—deal mainly with administrative matters : when they do touch on trade, they give more information about cloth than cattle. Fortunately, however, valuable material for the history of the Welsh cattle trade has been preserved

[1] Wylie, *The Reign of Henry V*, I, p. 39, n. 4.
[2] *Cal. Pat. Rolls*, H. V., 1416–22, p. 48.
[3] *Manners and Household Expenses* (Roxburghe Club), p. 184.
[4] 26 H. VIII, cc. 5 and 7.
[5] *Hist. MSS. Comm.*, App. to Third Report, *House of Lords MSS.*, p. 6.

in the Shrewsbury Borough MSS.[1] The registers of horse and cattle sales cover the years 1525 to 1674. The earlier books give the names of buyers and sellers of cattle and horses; the colour is noted for purposes of identification, but no price is recorded. Later on, the entries are more carefully made and prices are given. Examples of these later entries are as follows:

1563.	22 June.	One black and one red bullock from Flintshire	£3	1	0
		Two black oxen from Montgomery	2	6	8
1565.	1 August.	One ox from Carnarvonshire		15	4
1566.	22 June.	Two brown oxen from Montgomery	£2	12	10
		Two black oxen from Montgomery	2	13	4
1595.	1 August.	Two black oxen from Montgomery	£3	16	6
1599.	21 September.	Four oxen from Flintshire ..	£12	11	8
1600.	28 June.	Two oxen, one black, one brown, from Montgomery..	£8	6	0

The Penshurst MSS. show that in the sixteenth as in earlier centuries cattle were sent from Wales to great households in England. The account for 1575 of Sir Henry Sydney's steward in the Marches of Wales mentions two "great fat oxen" (price £9 6*s.* 8*d.*) with 100 "fat muttons" (price £35) and poultry worth £4 6*s.* 11*d.*, sent as a present to the Earl of Leicester at Kenilworth, the cost of driving and carriage being £1 9*s.* 2*d.* The account of Sir Henry's Clerk of the Kitchen (in the Marches of Wales) for March to September, 1584, shows that 30 oxen were bought in the Marches and sent to my Lord in Kent, the cost being £96 10*s.*[2]

[1] I am indebted for this information to the kindness of Dr. Hubert Hall and Miss M. Wretts-Smith. Ludlow was another notable market for Welsh cattle.

[2] *Hist. MSS. Comm., MSS. of Lord de l'Isle and Dudley, Penshurst Place*, I, p. 362.

For the Welsh cattle trade in the seventeenth century valuable references occur in the Wynn Papers[1] to the price of cattle, the wages of drivers and the fairs to which they went. Sir John Wynn was asked in 1607 to buy for Elizabeth Spencer 40 head of cattle, viz. 30 steers at about 5 nobles and 40*s*. apiece, and 10 heifers at about 30*s*. apiece. In 1624 he received the welcome news that a Kentish grazier would buy his cattle. Maurice Wynn in 1627 wrote out a list of the stock of cattle in the summer farm of Hafod Widir at the time when his brother Sir Richard was going to London. Another letter shows that the Wynns got some of their cattle from Merionethshire and some from Ruthin fair. Owen Wynn was told in the autumn of 1642 that the price of cattle at fairs had fallen by half in the last two years. Archbishop Williams told a London correspondent in 1644 that the sale of cattle had entirely stopped. It would certainly not be encouraged by the parliamentarian soldiers at Gloucester who seized 900 head of cattle in charge of eighteen Welsh drovers. In March, 1645, the Committee of Gloucester was ordered to pay £200 forthwith to the drovers, full satisfaction to be made later. The House of Commons in December, 1645, ordered that £1,500 out of the total amount (£2,653) due to the drovers should be charged on the Excise ; the remainder should be provided out of the estates of such Papists and delinquents as the drovers or their agents should discover. The House by no means wished to stop the Welsh cattle trade : on July 1, 1645, it was ordered " that Mr. Speaker shall have Power to grant Passes to such Persons as he shall think fit, that shall desire to trade for the Buying of Cattle in Wales and to drive and bring them to London." [2]

Details given in the Wynn Papers receive further illus-

[1] In the National Library at Aberystwyth. I am indebted to the Librarian for access to them in 1922 when they were being calendared by Miss Marjorie Hall.

[2] *Lords' Journals*, January 19th, 1645/6, and *Commons' Journals*, March 4, 1644/5, 1 July, and 22 December, 1645.

tration from a volume of accounts[1] belonging to the Tokes, a Kentish family who bought cattle at various fairs such as Maidstone, Burntwood, i.e. Brentwood, Bartholomew Fair in London and Bush Fair in Essex. Maidstone, Burntwood and Bush Fair[2] are all mentioned in the Wynn Papers in connection with the sale of Welsh cattle. Examples of entries in the Toke account book are the following:

Bought at Maidstone fayer the 6 of October 20 welsh heyfers £23 0 0
Bought at Maidstone fayer also 10 welsh Steers £9 13 0

Cheshire oxen were bought at Bartholomew Fair, the price being high, viz. £5 4*s*. apiece. Ten runts (very probably Welsh runts) were bought at Lydd fair at £2 7*s*. apiece. Welsh cattle had to compete with cattle from the northern counties, just as Welsh cottons had to compete with the fabrics of Lancashire and Yorkshire. There was also the competition of Scottish cattle, for in 1678 four Scottish heifers were bought at Chart fair for £6. But Welsh cattle held their own in Kentish markets, two Welsh oxen being bought at Maidstone fair in 1686 for £7 10*s*.

The flourishing condition of the Welsh cattle trade in the eighteenth century is attested by the remarks of various travellers. Defoe tells us that from Brecknockshire every year great herds of black cattle were sent to England. The chaplain to Lord Harley, second Earl of Oxford, in August, 1723, overtook two of his own countrymen driving some Welsh cattle from Bartholomew Fair, "who were highly delighted as well as myself with my addressing them in their own language."[3] Dr. Pococke, who travelled in England and Wales about the middle of the eighteenth century, noted that at Neath there were great markets of cattle, which

[1] I have to thank Miss Lodge, who is editing this volume for the British Academy, for her kindness in allowing me to search the MS. for references to Welsh cattle.

[2] Sir George Fordham kindly informed me that Bush fair was held at Harlow Bush, two and a half miles from Harlow in Essex.

[3] *Hist. MSS. Comm., MSS. of the Duke of Portland*, Vol. VI, p. 78. I am indebted for this reference to Professor William Rees.

were bought up by the English graziers. A traveller in Wales in the summer of 1797 wrote :

" As we proceeded, our progress was frequently retarded by numerous droves of black cattle from Pembrokeshire and Carmarthenshire, travelling towards the Passage to be transported across the Severn and driven to the markets of Bristol and the other large towns of Somerset, Gloucestershire and Wilts. Here they are purchased by the graziers and sent into the rich pasturage of the southern vales to be fatted, which cannot be effected in the country where they are bred." [1]

Other interesting details are furnished by the surveys compiled county by county for the Board of Agriculture. For example, we are told that the Welsh cattle bought at fairs by English graziers throve surprisingly on English pastures ; a pair of oxen bought in Montgomeryshire for £33 and fattened for a year, fetched £60 at Smithfield. The Scottish contributor of the survey of Anglesey notes that the Welsh farmer often fared badly at the hands of the English drover who evaded payment of the sum he had bargained for on the plea that he had made a bad bargain or that the market was dull. Cash payments as in Scotland, it is added, would benefit the tenant farmers of North Wales, who have no resource but their cattle for the payment of their rents. Another point noted is that Pembrokeshire cattle, hitherto sold in Kent and Sussex, were being driven also into the Midland counties. Welsh cattle are also said to have been sent to the Northamptonshire pastures.

In the nineteenth century the Welsh farmer continued to send his cattle to England.[2] Between Cricklade and Cirencester Cobbett met in separate droves about two thousand Welsh cattle on their way from Pembrokeshire to the fairs in Sussex. Most of them were heifers in calf, the very

[1] Warner, *Walk through Wales in August*, 1797 (Bath, 1798), p. 31. I owe this reference to the kindness of Sir George Fordham.

[2] Mr. J. R. Gabriel of the Training College, Caerleon, has lately talked with an old man who as a boy helped to shoe cattle at Abergwili fair, and who remembers hearing that a drover took cattle to Kent in 1809–10 and smuggled them over to France.

thing, thought Cobbett, for a cottager. For a good many years after the date of the *Rural Rides* Welsh cattle still travelled on foot along highway or byway, but as the railway system was extended the drover by degrees found his occupation gone. Probably by about 1870 cattle would be sent from Wales by rail. But before the appearance of the cattle-truck, a notable economic service had been rendered by drovers in the establishment of private banks. For generations they had been used to receive money from persons who had payments to make in London and elsewhere ; the drovers left this money at home and paid the creditors out of the proceeds of their sales, thus avoiding the risk of loss through accident or robbery. From this custom the transition to the establishment of a bank was not hard. At Aberystwyth early in the nineteenth century the Bank of the Black Sheep issued notes, each of which was engraved with a number of black sheep corresponding to the number of pounds it represented ; the ten-shilling note of course displayed a black lamb. The best known of these early Welsh banks was at Llandovery and was locally called the Black Ox Bank, its notes being engraved with a black ox. It was founded in 1799 by a drover, David Jones, the son of a farmer near Llandovery. Once when runs on banks were frequent, a timid client came in to withdraw his money. He was given Bank of England notes, but refused to accept anything but notes of the Black Ox Bank. A similar bank at Carmarthen, Walter Jones and Co., did much in the way of lending money to drovers to enable them to buy cattle, but it was imprudently conducted and went bankrupt in 1832.[1]

This outline of the Welsh cattle trade with England may be filled in by some details respecting routes and drovers. Before the cattle could start on their long journey they had to be shod, so as not to go lame on hard roads. The shoes used were in two sections, not in one piece like horse-shoes : they were also thinner and lighter. The Welsh name for them

[1] Article by Mr. Francis Green, " Early Banks in West Wales " (*Hist. Soc. of West Wales Trans.*, Vol. VI).

was "ciw." The shoeing process has been described in a recent article [1] based on information from an old blacksmith who in his youth worked in and near Bala. Hundreds of cattle-shoes used to be made in the winter so as to be ready when needed. Word came once that sixty head of cattle had to be shod in Dolgelley next day. At three in the morning two blacksmiths, a feller (or overthrower) and a helper started from Bala eighteen miles away, carrying with them 480 shoes and the necessary nails, hammers and knives. On reaching Dolgelley they set to work. The feller and his helper threw a rope round the bullock's horns; while the feller gripped the horns, the helper took hold of one foreleg, bending it at the joint. Then the feller twisted the horns and down went the bullock, being held firm while the helper bound its legs. A piece of iron about three feet long with a point at one end and a fork at the other was pushed into the ground, the point downwards, and the rope from the forelegs to the hindlegs was placed on the fork. The bullock was then ready to be shod, the first blacksmith trimming the hoof and the second nailing on the shoes. The bullocks were from two-and-a-half to three years old and hard to throw. One of them, a huge black steer from Anglesey, actually dragged the feller and his helper through the river: they held fast, however, and in the end "Merionethshire had Anglesey down on his back." Their labours ended, the four men walked the eighteen miles back to Bala the same night. The master blacksmith got tenpence for each steer shod.[2]

[1] I have to thank the Librarian of the National Library for the reference to Mr. Hugh Evans' article in *Y Brython* (July 2, 1925).

[2] Cf. Wm. McCombie, *Cattle and Cattle-breeders*, 1867. "Robert Gall of Kennethmont on one day shod seventy cattle to me near Porth and no rope ever touched them in the field." I am told that cattle are still shod for "driving" in Italy. The same informant, Mr. Charles Rolfe, who spent many years of cattle-farming in Queensland, tells me that by using ropes cattle can be thrown as follows: "The animal is first of all fastened by the neck to a post, then while it stamps about, a noose is passed round the fore and hind legs on the same side and ropes are fastened to a post: then the head is set free and the tail is pulled, whereupon the animal at once falls on its side without being injured in any

The shoeing completed, the droves were ready to start. The routes from South Wales are known in some detail. The Cardiganshire drovers in the early nineteenth century started along the turnpike road paying a toll at Pentre Davies near Pumpsaint, whence they travelled forty-five miles partly along by-roads but mostly over open hill to Rhydspence on the borders of Radnorshire and Herefordshire. The Pembrokeshire droves made for Llandovery, near which there was rich meadow land for resting fields; then they passed through Velindre turnpike-gates, left the main road and joined the cattle track from Cardiganshire at Llandulas. On the plateau of the Epynt range at Pencenffordd was the *Drovers' Arms*,[1] a noted resting place whence the route led downwards to the Wye. If the river was low, the beasts forded the stream; if it was high they were ferried across, a tedious and dangerous business, for now and then cattle and even men were washed away. At Painscastle and Rhydspence the shoes were looked to, Herefordshire roads being hard. Resting fields were to be found at Whitecross and Hereford. The first toll paid in England was at Willersley. Thence the drovers pursued their way to various markets and fairs in Leicestershire, Northamptonshire, Kent and Essex. By-roads were used whenever possible, so as to avoid paying tolls.[2]

way." Mr. Geo. Eyre Evans informs me that specimens of cattle-shoes now rare are exhibited in the museum of the Carmarthenshire Antiquarian Society, also that Tregaron and Pumpsaint were places in which cattle bound for England were shod. Oxen were always (and are still) shod for ploughing, but usually on the fore-feet only.

[1] Other Welsh inns with this sign are to be found (1) in Brecon on the main road from Carmarthen to Hereford; (2) on the main road from Merthyr Tydfil to Brecon about half a mile from the Glamorgan border; another, now a private house, formerly existed at Penydarren on the main road between Merthyr and Dowlais. I owe this information to Miss D. Morgan of Merthyr Tydfil.

[2] Summarised from Mr. John Lloyd's paper on "The Black Cattle Droves" (with map) in *Historical Memoranda of Breconshire*, 1903. Mr. John Ballinger tells me that he walked most of these cattle roads years ago with Mr. Lloyd's map and familiarised himself with the centres where the cattle were shod and the enclosures in which they spent the night on the road.

It is still remembered that cattle-dealers used to buy cattle at Haverfordwest and take them to Ashford, Kent, where a mart was held which was attended by buyers from Smithfield market. The route was by way of Narberth, Carmarthen and Llandovery, thence over the mountains to Builth (Brecon being avoided owing to the toll gates), thence to Talgarth and Rhydspence and on to Hereford, Ross, Ledbury, Tewkesbury, passing Malvern Wells, leaving Oxford on the left and on by way of Newbury and various by-roads to Ashford.[1]

Here and there from road names or from local tradition the precise route followed by drovers can be ascertained. For example, part of an ancient road near Bagendon and Barnsley in Gloucestershire is called Welsh Way.[2] On the heath north of Farnborough in Hampshire there is a tract called the Welsh Ride or Drive, a grassy road between gorse and heather. At Bewdley some twenty years ago there were traditions that Welsh drovers often passed through the town on the way, doubtless, to the cattle fairs of Stourbridge and Bromsgrove. Memories still survive of the Welsh cattle sent year by year to the November fair at Blackwater near Camberley. In the eighteenth century at all events Welsh cattle must have been seen on the road near East Grinstead, for in a volume of Ancient Letters in the Exeter Muniment Room is a printed notice of the borough (of East Grinstead) which mentions that the fair on 30th November was "a great Fair for Welch Runts, fat Hogs and other Cattle." Especially detailed are the memories of the Welsh cattle droves that used to come twice a year to Albury Heath near Guildford. An informant,[3] whose father and

[1] For these details I am indebted to the help of Mr. Sidney Williams and Capt. T. R. Evans.

[2] Mr. St. Clair Baddeley, to whom I owe this information, suggests that the "Paen" (an outlying spot in Cirencester where the Whiteway leaves the town in a north-westerly direction) may have been an inn frequented by Welsh drovers. "Paen" is Welsh for "peacock." When some slummy tenements on the spot were cleared away (*cir.* 1891) remains were found of the twelfth-century Hospital of St. John.

[3] Mr. Edward Browne of Albury Heath gave this information to Miss O. M. Heath, who has very kindly passed it on to me.

grandfather lived in Albury and remembered the droves, says :

" The droves were Welsh cattle, small and black, numbering five or six hundred ; they went slowly eastwards till all were sold. Routes were chosen with wayside wastes and with as little traffic as possible. The droves came over the Hog's Back to Guildford and then up on to the Downs, presumably along what is known as the Drove Road. On Albury Downs the droves would either continue eastward to Dorking, possibly turning down to Effingham or else south to Horsham. It is these last that are locally remembered. They left the Downs at Newlands Corner and came down the hill to Sherbourne (Albury). The meadow by Sherbourne Lane with the stream running through it was a favourite one for turning the cattle into and local farmers supplied hay. The route then continued up to Albury Heath, over Shere Heath, up the road to Ewhurst and so over the hill towards Horsham. Albury and Shere Heaths at times were black with cattle. As a boy I more than once helped in driving the local cattle off the heath and hurrying it up to Farley Heath half a mile away in order to get it clear. That was the great danger, local cattle got caught into the droves and might go for miles before they could be retrieved. The drovers did not concern themselves about this, other people's cattle must not be in their way, but when the owners of lost cattle appeared the drovers would do their best to help them out again.

" A great feature of the droves was the noise they made. It was heard for miles and warned local farmers what to expect. The noise consisted of the shouting of the drovers combined, I suppose, with a certain amount of noise from the cattle. But it was the men's voices that chiefly attracted attention. It was something entirely out of the common, neither shouting, calling, crying, singing, halloing or anything else, but a noise in itself, apparently made to carry, and capable of arresting the countryside. The horsemen and two or three of the cattle acted as leaders to the rest and the men kept calling and shouting the whole time. As soon as the local farmers heard the noise they rushed their cattle out of the way, for if once these got into the drove they could not easily be got out again."

A detail worth noting has been furnished by Miss A. E. Levett. The Welsh-speaking drovers who used to come to

Bodiam fair up to about 1880 (or possibly about 1875) were dressed in rough tweed or frieze with wide-brimmed hats ; they sold Welsh ponies as well as cattle.

Cattle from North Wales travelled along the so-called Welshman's Road, Welsh Road or Bullock Road, which Mr. Duignan considered to be a British trackway. The droves travelled mainly on the line of the Old Chester Road to the *Rising Sun*, Brownhills, where they divided, some continuing along Watling Street, others going through Castle Bromwich. At Stonebridge they divided again, some going direct to Kenilworth and some by Meriden, both routes uniting at the *George in the Tree*, a noted drovers' house. A little south of Kenilworth the Welsh Road crossed Chesford Bridge, whence it proceeds past a number of villages such as Cubington and Sulgrave, down to Buckingham and thence to Leighton Buzzard and Totternhoe. Between Dunstable Downs and Totternhoe Knolls there is a grassy track known as Green Way or the Drovers' Way. From Leighton Buzzard the drovers would doubtless make for Barnet fair.[1]

To Mr. Duignan's description of the route from North Wales may be added the details given in Aikin's valuable *Journal of a Tour through North Wales* in 1797. He was lucky enough to see some black cattle, reared in Anglesey, swimming across the Menai Strait on their way to Abergele fair, where they would be bought up by drovers and disposed of at Barnet fair to farmers in the neighbourhood who would fatten them for the London market. Many of the cattle while swimming across the strait were carried towards Beaumaris Bay ; boats rowed after the stragglers and sometimes the boatmen threw ropes round their horns and towed

[1] With this route may be compared the route given in a poem by Thomas Prys, Plasiolyn (*ob. c.* 1620), printed in *Cefn Coch MSS.*, ed. J. Fisher, 1899. A mouse sent from London to North Wales took the following route : Highgate, Barnet, St. Albans, Redburn, Dunstable, Brickhill, Stony Stratford, Dorchester, " Deintri " (i.e. Daventry), Dwnsient (?), Coventry, " Feriden " (i.e. Meriden), Birmingham, Hampton, Totnes, Shifnal, Wattling, Shrewsbury, Oswestry, Llangollen, Ruthin, Hiraethog, Llanrwst. I am indebted for this reference and for much other help to the kindness of Professor W. Garmon Jones.

them to the shore. From Abergele the cattle would probably go up the Clwyd valley, for there is an inn called the *Drovers' Arms* a mile or so north of Ruthin and near by is a field where cattle used to be thrown and shod.[1] Thence they would make for the Old Chester Road.

Welsh cattle were naturally sold mainly in the markets of the Midland and Southern counties, but to some extent they reached Lancashire as well. A correspondent, Mr. J. C. Brown, of Grange-over-Sands, says: "It was quite an adventure going to buy them, for it was necessary to carry the money to pay for them, cheques of course being unacceptable to the Welsh breeders."

The cattle trade from Wales to England has been mainly carried on by land, but not entirely so. Prof. E. A. Lewis of Aberystwyth, who is engaged in a study of the coastwise trade of Wales, has kindly furnished me with some references to the conveyance of cattle from Tenby across to Bridgewater, Watchet and Minehead.[2] In the Port Books that I have examined myself, I found a few such references, the most noteworthy being that in 1670 a considerable number of bullocks (over 206) were shipped during January-June from Aberthawe to Minehead.[3]

There is no description of the Welsh drover to be set beside that of Sir Walter Scott in the first chapter of his tale, *The Two Drovers*.[4] Yet in some respects the Welshman and the Highlander must have been alike, in endurance and in shrewdness at all events, though the Welsh drover probably did not take oatmeal, onions and whisky as provision for his journey. The occupation of drover can be traced back to the fourteenth century at least, for "Johannes Kereslegh Drovere et Civis London" is mentioned in a writ dated 1384.[5]

[1] I owe this information to the kindness of Rev. Canon Fisher.

[2] *P.R.O.*, K.R. Port Book, 1312/10 (date 1687–8).

[3] *Ibid.*, 1278/1.

[4] The life of the Scottish drover in the nineteenth century is fully described by Wm. McCombie in his *Cattle and Cattle-breeding*, 1867.

[5] Early Chancery Proceedings, 61/387, *Bulletin of the Institute of Historical Research*, VII, 68, cf. I, 97.

An early mention of a Welsh drover is found in a Chancery suit [1] between Hoell Drover of Yly (? Ely, near Cardiff) and the bailiff of Bristol, who robbed him of two nobles. A few drovers, whose names suggest that they belonged to Wales or the Welsh border, are mentioned in the Corpus Christi Gild Book preserved in the Coventry Muniment Room.[2] Under the statutes 5 & 6 Ed. VI, cc. 14, 21, and 39 Eliz. c. 4, § 5, all drovers had to be licensed annually by Quarter Sessions for the county in which they had lived for the previous three years ; they had to be married men and householders and to have attained the age of thirty. No drover's license was to be granted to a household servant or retainer. A later statute forbade drovers to travel on Sunday,[3] and under a later one still they were not entitled to be deemed bankrupts, i.e. they could not free themselves from obligations once undertaken.[4] The licenses granted to Welsh drovers must have been much like one that was granted at the Cambridge Quarter Sessions in 1584.[5] The possession of this license protected drovers from punishment under statute against forestallers, regrators and ingrossers, and also prevented them from being confused with vagabonds, many of whom were Welshmen.[6] In the seventeenth century the drovers [7] were sometimes important enough to be suggested for high local office. The Earl of Bridgewater, Lord President of Wales, was told in 1631 that John Vaughan of Henllan had been suggested as Sheriff of Denbighshire. Vaughan,

[1] I am indebted for this reference to Miss E. M. Carus-Wilson.

[2] The names are Richard Gythin, Dave Prysse and Richard Malpasse. I owe my knowledge of this Gild Book to the kindness of Miss Dormer Harris.

[3] Car. I, c. 1.

[4] 6 Anne, c. 22, § 8.

[5] B. Mus. Charter 39063, printed in *History Teachers' Miscellany*, Vol. III, No. 5. Cf. *Hist. MSS. Comm.*, 3rd Rep., App., pp. 151, 179 (Register of persons licensed at Hertford Quarter Sessions to be common drovers, 1603 and 1615).

[6] "The most of these that walke about be Walchemen." *Tudor Economic Documents*, ed. Tawney and Power, III, p. 412.

[7] At this period "drover" seems to have been often used in the sense of "cattle-dealer."

however, pleaded to be passed over on the ground that he had only just bought freehold land to the value of no more than £60 a year. Another drover, Jevan Davies, had been returned as sufficient to be Sheriff of Radnorshire, but someone else suggested that he was unfit, "being a drover," and that a gentleman should be nominated in his place.[1] The only Welsh drover's will that I have yet found at Somerset House records no great wealth. John Davies of Lilshull, County Salop (1625), left money bequests totalling £140 and a list of debts owing to him amounting to £78 8*s*. The drovers of the seventeenth century fulfilled a useful function in days when travel from Wales to England was no easy matter. Their regular journeys made it possible to send money or messages to London and elsewhere and to secure the execution of commissions for the gentry.

The Denbighshire ship-money was sent up in the autumn of 1636 by drovers,[2] and in September, 1643, Col. John Owen borrowed from a drover the sum of £10 which he desired his wife to pay on receipt of his letter.[3] Archbishop Williams had good reason when craving Prince Rupert's favour for "the petition of our Welsh drovers" to style them "the Spanish fleet which brings us what little gold we possess."[4] Sir John Wynn wrote in 1613 to the Privy Council excusing himself for non-payment of £365, part of the purchase-money for his baronetcy. The same day in another letter he wrote: "Let the Lords take what course they list, the money cannot be paid until the latter part of Michaelmas term, when the drovers return from Kent." A few years later (1621) Owen Wynn wrote to his father, Sir John, that rents come in slowly, and what comes, the lead mines will devour. "The country having sold to the drovers and the

[1] *Welsh Shrievalty Papers among the Bridgewater MSS.* (Shropshire Arch. and Nat. Hist. Trans., 1925).

[2] J. R. Phillips, *The Civil War in Wales and the Marches*, I, pp. 73 ff.

[3] *Arch. Camb.*, 4th Ser., Vol. VI (1875), "Correspondence during the Great Rebellion," p. 206.

[4] Letter to Prince Rupert, Jan. 29, 1644/5 (reference kindly given by Mr. J. R. Gabriel).

drovers having laid it out here, they will exclaim horribly against Sir John if they are not paid forthwith." The drover's trade naturally involved a good deal of financial risk. Hence the warning addressed to him by Vicar Prichard in *The Welshman's Candle*:

> If thou'rt a Dealer, honest be each Act
> And fairly pay for what to thee is sold.
> Be to thy promise and thy word exact,
> Credit is better oft than hoards of gold.
>
> Buy not too much on tick, for all will sell
> To such a purchaser extremely dear.
> And such a trade will soon that wretch compel
> To quit the kingdom or to disappear."

The drover's calling sometimes involved worse than financial risks. There is a story of a father and son who were murdered on their journey from Shrewsbury to Anglesey in July, 1670, to buy cattle.[1]

The drover had likewise his linguistic troubles. Two hundred words of English sufficed, said one, when trade was good, but more were needed when things went badly. Mr. John Lloyd tells the story of two drovers who had put up at the *Lock and Key* near Smithfield market and went out for a stroll. They lost their way and wandered miserably all night long. At last they mustered courage to accost a passer-by and ask the way to Bailey Vicar, the largest farm in their native parish. By good fortune they had fallen in with a Welshman who guided them safely to the *Lock and Key*.

Drovers as a class had no good reputation for humanity. In the *Gentleman's Magazine* for 1774 appeared a list of suggestions to be embodied in an Act of Parliament against maltreatment of cattle for the London markets. Cruelty on the part of a drover was to be punished by imprisonment in Bridewell. An order for the suppression of cruelty to

[1] "Hynafiaethau Llandegai a Llanllechid," by Hugh Derfel Hughes, Bethesda, 1866.

cattle was made by the City authorities in 1789—without much effect, to judge from Dickens' description of Smithfield in *Oliver Twist.*

A few recollections of the drovers of the nineteenth century may be added. A curious collection of local lore by Owen Roberts of Penmachno (1888) records that about sixty years earlier there were in Penmachno six cattle drovers who used to go as far as Kent. One Richard Roberts plied his trade for sixty years.[1] The Welsh drovers who passed through Worcestershire are still remembered, as may be seen from the following information furnished by Mr. G. M. Stratton,[2] whose father for many years kept the *New Inn* at Cropthorne, on the Pershore and Evesham road:

> " Some seventy years ago I well remember as a boy seeing as many as eight or ten Welsh drovers several times driving as many as 300 and 400 of the Welsh black cattle, also, at times, a similar number of the hardy Welsh ponies. These, they informed us, they were taking to London. They also told us that they drove their cattle, etc., along the by-roads from Wales, in order to avoid paying pike toll. They always made our place a rest place for themselves and their animals during a night's stay, as we had a green field for the animals. They evidently brought them from Wales midway through Herefordshire viâ the by-roads to Ledbury, Malvern, etc., to the main road this side of Pershore. My mother and the principal drover would stand by the gate leading to the field and count the animals to make sure that none were lost. She would have a quantity of peas in her pocket, and when the number twenty was reached she would place one pea in another pocket, and by that method of calculation she would know the number of animals for which she should charge. In the morning the drovers would leave early and drive their animals up Smoky Lane to Netherton by Ashton-under-Hill, through Oxfordshire to London by the by-roads that they knew so well, and thus avoiding the toll-bars."

[1] I am indebted for this reference to Prof. J. Glyn Davies, University of Liverpool.

[2] Printed in the *Evesham Journal* of June 20, 1925, and kindly communicated to me by E. A. B. Barnard, Esq., F.S.A., F.R.Hist.S., the editor of the column " Old Days in and around Evesham."

Miss Joan Wake has very kindly passed on to me some information respecting Welsh drovers that she received on May 11, 1925, from Mrs. Van Bar, aged 88, of Weston Turville, Bucks, who as a small child went to live with her uncle and aunt, Mr. and Mrs. Webb of Padbury, Bucks. Mr. Webb was landlord of the *New Inn*. The events she described took place about eighty years ago or more:

> "Every year two men on horseback, named Waters and Davis, used to arrive at the *New Inn* and ask Mr. Webb if the droves of cattle and sheep, coming from Wales to the London market by way of Banbury and Aylesbury, might be turned into his fields for the night. Mr. Webb was always anxious to have them on account of the value of the manure, but his wife very strongly objected to having to put up the drovers. However, Mr. Webb always had his way, and in a day or so they would arrive, large droves of cattle and little Welsh mountain sheep which no fences could keep in. They were turned into the fields, and the drovers came to the inn, where they were regaled with a large supper. Mrs. Webb had previously taken up the carpet in the bedroom, and thrown the curtains to the top of the four-poster bed. After supper the drovers were told to go into the yard to have a good wash, but how much washing they did we never knew. Very early the next morning they would have a stand-up breakfast of bread and cheese and beer and drive the cattle off towards London. About six drovers used to come each time, and this happened once a year."

Although the dealer and foreman drover and other senior drovers would put up at inns, occupying beds at prices ranging from 4*d*. to 6*d*. a night, the juniors would often sleep under hedges in the fields with the cattle. The pay of the drovers who took cattle from Haverfordwest to Ashford early in the nineteenth century was at the rate of 3*s*. per day plus a bonus of 6*s*. on being paid off at their destination. They supplemented their earnings by selling milk when near places of any size. After the cattle had been sold at Ashford, the dealers came back by coach and the drovers on foot. Every effort was made

to avoid turnpike gates. When this was impossible, at some such gates one man used to carry another on his back so that only one person could be charged. No account of the Welsh drover must omit mention of the drover's dog. A drover named Clough, who lived at Llandrillo at the beginning of the nineteenth century, had a dog named Carlo with a wonderful ability for cattle-driving. Once when he was in Kent, after long persuasion he sold his pony to a customer and decided to go home by coach. The pony's saddle was put on Carlo's back with a note attached asking the landlords of the inns where he used to stay to give Carlo food and a resting place and then send him on. Carlo was told to go home, and home he went, calling at every inn where he used to stay with his master. After about a week's journey he reached Llandrillo safely with the saddle on his back.[1]

To sum up the conclusions reached from this survey of the cattle trade between Wales and England in pre-railway days. It was a trade which obviously benefited both countries. It furnished England with meat and Wales with money. It reminded Englishmen that there was such a country as Wales, and it served to lessen in some measure the isolation of Welsh farms. We can easily imagine the excitement when the drovers came back with their tales of Barnet and Smithfield and the sights of London town, tales to be told on many a winter's evening round the fireside while the women knitted and the men carved wooden spoons. If the Welsh cattle trade has interest chiefly for the economic and social historian, it presents also features of general interest ; it shows the value of family papers and accounts and also the importance of securing betimes oral information respecting the recent past.

I should like to end by expressing my thanks to all who from their local knowledge have contributed material for this paper.

[1] See " The Life of Cwm Eithin, i.e. Llangwm, Denbighshire," by Hugh Evans in *Y Brython*, July 2, 1925.

APPENDIX I

WYNN PAPERS, K. II, 10. *September* 12, 1670.

Richard Lewis his Accompt made this day for one hundred and seaventie and three Beasts sent by him to London and Bush faires in August Last 1670.

att London ffaire.

		£	s.	d.
Imps. sould.	6 Runts for	28	10	00
	10 Cows ,, ...	25	10	00
	11 Cows ,, ...	02	09	00
	11 Cows ,, ...	18	19	06
		75	08	06

Sould at Bush ffaire.

	08 Runts for	27	12	00
	41 Cowes ,, ...	86	02	00
	20 Calves ,, ...	27	00	00
	10 Calves ,, ...	12	00	00
	12 heafers	19	00	00
	12 Calves	12	12	00
	02 Calves	01	10	00
	22 Calfes	18	10	00
	10 Calves	11	10	00
Total sould 270.				
remaynes with Mr. Patton	002 beasts			
and with Wm. Prich	1 beast.			
Sum'e totall recd. for 270		297	04	06
To which sum is to be added of money sent with him		008	00	00
Totall		£305	04	06

	£	s.	d.
Richard Lewis his charge uppon this Accompt ..	305	04	6

He dischargeth himselfe as followeth:

Imps. Payed to the handes of Mr. Henry Bodvell the 3rd of September 1670	163	00	00
Payed him the same day by dirrec'on for the use of my Lady Wynne	050	00	00

Left with Mr. Henry Bodvell the same day two Bill—(£58 and £14)	..	..	72 00 00
Charges for grasse and drivers	..	..	16 11 01
Richard Lewis his expenses abroad for 24 dayes		..	03 12 00
			£305 3 01

A second account dated February 30th (*sic*) 1670/1 gives particulars of beasts sold at Uxbridge and Maidstone fairs, 219 in all, the total received for them being £470 13*s*. One beast was lost before delivery to Richard Lewis and another was lost "w'ch came w'th the cattell that William Prichard sould to Abraham."

APPENDIX II

Some References to Drovers in Welsh Poems

The dark side of a drover's life is shown in a poem by Gutto'r Glyn (*Mostyn MS.* 146, pp. 153–5). I am indebted for the reference to Professor W. J. Gruffydd and to the Librarian of the National Library, Aberystwyth, for the following translation:

"There are two things that travel throughout the lands, water and the sun, and it is God who gives them, and the third thing is the purse of our friend the parson of Corwen, noble patron of literature.

"The purse with three strings is to me like the flow of the tide; bounteous is the sun in giving fine weather and bounteous is the man with his gift of money. He is a generous lord, not venomous and not close-fisted except in the case of the lambs.

"My bargain with Sir Bennet was good and I went as a drover, but my good merchandise became less and less valuable. By some accident I got some hired men to drive these, two men conveying them, and the poet, a third, behind them. To Rug, to Cefn yr Ais, and to Warwick I drove them and to England, through every ford, over hill and dale to remotest parts. There was no dog without its fair lamb, and there was no water on the way but where a lamb was drowned. We missed every fair on account of floods and we could not leave them at night by the streams. Every fence hindered one-third of them and their wool clung to every hedge. I tried to my disadvantage three-score towns, until I got to Coventry; some offered threepence half-

penny for a couple, and some pennies. I would not have a poor bargain, but I was more unlucky still, twenty lambs died. Then I turned to distant lands in the direction of York and better markets, spending in Lichfield the payment I received for twelve lambs, and that was not enough.

"I turned to Stafford across waste land, towards the north, mocking my own language ; far, far across every hated scrub, and the further, the less valuable was the flock.

"Selling my wares . . . two white lambs for less than a penny, and he, fair Sir Bennet from the borders of Carreg, is without any payment. An animal has no value when it has fallen and Sir Bennet will not believe this. I shall be profitless when I pay up ; an unlucky sheep drover am I. . . . I shall receive when I reach home a penny for a pledge and a long horned lamb. I have been twice promised money if I undertake the same journey again, but if I obtained twice as much for my sheep, I would not go again."

Other references to Welsh cattle are to be found in the works of Edward Morus, ballad-writer and drover, who died in Essex in 1689 ; of Siemsyn Turbil, a noted ballad-writer of the eighteenth century ; and of John Jones (Sión Glanygors), who is said to have gone up to London as assistant to a drover

THE FOUNDATIONS OF ENGLISH HISTORY

By Professor F. M. Stenton, M.A., F.B.A., F.R.Hist.S.

Read 14 *January*, 1926

The title of this paper does not mean that I wish to propose to you any revolutionary opinions as to the character of the earliest English history. I shall not ask you to reconsider the evidence which has convinced generations of scholars of the Germanic character of Early English society and institutions. I shall not discuss the question whether Celtic tradition may have preserved fragments of true but neglected information relating to the age of the Saxon settlement. All that I propose is to ask whether a more exact analysis or a completer presentation of familiar materials is likely to confirm or to overthrow the reconstruction of Early English history which we have inherited from earlier scholars.

It may at once be said that a reconsideration of the literary materials for the earliest English history will soon be forced upon scholars by the rapid development of related studies. Twenty years ago it was still possible to write the history of the settlement of Angles, Saxons, and Jutes in Britain without travelling beyond the written word. It is true that before the middle of the nineteenth century a man of genius, John Mitchell Kemble, had brought the pottery recovered from Anglian burial grounds into relation with the contemporary pottery of North-West Germany. But the historians of the next generation did not follow up this line of research, and archæological material remained at most a decoration to the facts established by literary, legal, or diplomatic evidence. The general recognition of archæology as a factor in the reconstruction of English history belongs to the present century. The articles contributed by Mr.

Reginald Smith to the Victoria History of the Counties of England, the monograph by Mr. Leeds on the Archæology of the Anglo-Saxon Settlements, the two volumes which Professor Baldwin Brown has devoted to this subject in The Arts in Early England, have compelled historians to realise the variety and significance of the new evidence which is now at their disposal. Moreover, the positive contributions which these studies have made to Early English history have been already of extreme value. Archæology has brilliantly confirmed Bede's statement that the Isle of Wight was settled by Jutes, it has for the first time made it possible to form an opinion as to the extent of Germanic settlement in England before the conversion, and it has established criteria which prove a distinction of culture between the closely related Angles and Saxons. And perhaps its chief service is that it has given body and form to our conception of the civilisation reached by the Germanic invaders of Britain in the age of their settlement.

There can be no doubt that the most pressing task which confronts those who are interested in the earliest English history is the establishment of some coherent relationship between the facts revealed by archæology and the course of history implied by the literary authorities. In particular, it has now become impossible to evade the question whether the progress of archæological discovery has not made incredible the story told by ancient series of annals preserved in the Old English Chronicle. In so far as this story relates to the foundations of the kingdoms of Kent and Sussex it is not, I understand, generally considered incompatible with the archæological evidence. But between the annals which record the conquest of Wessex and the history to be recovered from archæological material there is an opposition which may easily be exaggerated but is nevertheless real. And until scholars have come to some general opinion as to the extent to which this opposition is irreconcilable the foundations of English history will remain insecure.

In itself the story is probable enough. It makes the first

West Saxon leaders, Cerdic and Cynric, land in 495 at some point not now to be identified on the coast of the modern Hampshire. After the arrival of several friendly ship's companies, the conquest of the Isle of Wight in 530, and a number of battles on the mainland, the Saxons in the twenty-five years between 552 and 577 extend their territory in three directions. Towards the west they obtain possession of all or the greater part of the modern Wiltshire by battles fought at Old Sarum and Barbury near Swindon. A battle at Dyrham in Gloucestershire in 577 brings them to the Severn, and gives them Gloucester, Cirencester, and Bath. Six years earlier, in 571, they win from the Britons the whole plain to the north of the Chilterns between the Thames and the Hertfordshire river Lea. In other words, the great expansion which opened the territory between Lea and Severn to Saxon settlement followed a period of more than half a century in which, if the Chronicle may be followed, the Saxons were contained within the narrow area formed by the modern counties of Berkshire and Hampshire.

The archæological evidence suggests a very different story. Few remains of heathen Germanic settlement have hitherto been found in Hampshire. On the other hand, abundant remains of this character have been discovered to the north-east of the middle Thames parallel to the line of the Icknield Way. These remains, in fact, connect by a chain of settlements the very ancient Saxon settlements of Berkshire with the region of the middle Ouse and Cam where Saxon and Anglian cultures meet in intimate association. It would be held by most archæologists that the character of these remains proves that the plain beneath the Chilterns was settled by Saxons long before 571, and it has even been recently argued that the Saxons themselves entered Britain not, as the Chronicle implies, from the Hampshire coast, but from the Wash. More often it is argued that the Saxons used the greater waterway of the Thames and gradually spread out from their settlements by the river to occupy the territory to the north, south, and west. In either case the

student of history is driven to the unwelcome conclusion that the narrative of the West Saxon conquest contained in the Chronicle can no longer be accepted.

Now it should at once be admitted that this conclusion may one day become inevitable. New discoveries of archæological material, and the more minute analysis of that which is already known, may compel not the reconsideration but the rejection of what now passes for early West Saxon history. Nevertheless I would suggest that the time for such a drastic measure has certainly not yet arrived. The question of the extent to which archæological material can safely be used as a basis for an absolute chronology must be left to the archæologists themselves. To a student of Early English history it seems hazardous to reject what is at least a very ancient tradition because of inferences drawn from material singularly barren in objects which yield a precise date. Moreover, though the archæologist is at liberty in his own field to construct a chronology based on stylistic development and the association of material, the historian is compelled to compare his results with those obtained from other lines of inquiry. And before the Chronicle is rejected on archæological grounds the evidence derived from other related studies should be brought into the discussion.

For instance, no discussion of the credibility of the Chronicle should ignore the suggestion of early settlement afforded by the group of archaic place-names which exists in the extreme south of Hampshire. Such names as Eling, at the mouth of the Test, Nursling, a little way up the river, Swaythling, on the Itchen above Southampton, Chilling, on the east shore of Southampton Water, Wymering, above Portsmouth, and Hayling in Hayling Island, belong to the most ancient stratum of English names which has hitherto been identified. They are of especial interest as resembling the ancient nomenclature of Kent much more closely than that of the adjacent Sussex, and they thus support the statement of Bede that the country opposite the Isle of

Wight was, like Kent, settled by Jutes. Their importance in the present discussion lies in the fact that they are incompatible with any view which postulates a late settlement of Hampshire. Isolated names of this type prove little beyond raising a probability that a region in which they occur was settled before the end of the sixth century. But the appearance of a group of these names within a small area proves a very early settlement, and more than counterbalances the absence of archæological evidence to this effect. It is true that few names of this type occur in the rest of Hampshire. Much of the county must have been thickly wooded in Old English times, as now. And other traces of ancient nomenclature in the centre and north of the county are sufficient to prove that this region passed into Saxon occupation not long after the settlement of the coast.

But in the last resort, nothing but analysis of the Chronicle itself will determine the question of its credibility. It would be almost universally agreed that the long series of annals which ends with king Æthelwulf's death in 858, is contemporary ninth-century work. With this portion of the Chronicle we are not here concerned. From the present standpoint, the all-important question is the date of the West Saxon annals which relate to the period before 750, when the continuity of annalistic writing is undoubtedly broken. And the general opinion of recent scholars is decidedly in favour of their high antiquity. Traces of archaic grammatical construction, the employment of methods of computation so ancient that their meaning cannot now be recovered, the frequent reference to obscure place-names, raise an almost overwhelming presumption that part at least of these annals go back to the seventh century. It is, no doubt, impossible to determine the exact date at which annalistic writing began in Wessex. It cannot have preceded the conversion of the West Saxons in the fourth and fifth decades of the century. But the remarkable precision of the annal for 661 which records that Cenwalh fought at Posentes byrig *at Easter* suggests contemporary writing.

If possible, it is certainly improbable that any annalist of a later generation would have set down that there was a great destruction of birds in 671. And in an important article[1] Mr. G. H. Wheeler has recently argued from a study of the genealogies imbedded in the annals that the section of the Chronicle extending from 648 to 750 incorporates a contemporary record of events.

If this is correct—and no serious argument has yet been brought to the contrary—it has an important bearing on the authenticity of the history contained in the annals before 648. In itself, the annal for this year does not look like the beginning of a Chronicle. It is surely inconceivable that a clerk who wished to compose such a record would open with the unprefaced words, "In this year Cenwalh gave to Cuthred his kinsman three thousands of land by Ashdown—Cuthred was son of Cuichelm, Cuichelm, of Cynegils." Cuthred was not the founder of a dynasty; he died in 661 without recorded issue. Even if the Chronicler began to write in 648 it is surely not unreasonable to assume that he would have recorded retrospectively the conversion of his people and their rulers, to which no fewer than six annals, for which no ulterior source has ever been found, are actually devoted in the preceding section of the extant Chronicle. The character of the annalistic writing does not change in 648. The entry for 648 is the first annal which contains an internal indication of contemporary writing, but it cannot fairly be taken to mark the beginning of a new West Saxon Chronicle.

Is it not far more probable that this seventh-century Chronicler began his work at a much earlier point, that we owe to him the preservation of the West Saxon traditions of Cerdic, Cynric, and Ceawlin? This, at least, is a question which should be faced by all who are interested in the early history of Wessex, or, for that matter, of England. All that can here be said is that the triviality of some entries, the enigmatical character of others, suggest that they were

[1] *English Historical Review*, xxxvi, 161.

written down when there was still a living memory of the events to which they refer, when, for example, a bare statement that Ceolwulf fought with the South Saxons would call to a reader's mind the causes, battles, and issue of the war. These early annals should not be regarded as an imperfect attempt to tell a coherent story, such as was told by the later annalists who related the wars of Alfred, or Edward the Elder. They should rather be compared with the laconic allusions which distinguish the earliest English poetry, in which bare reference to a fact is sufficient to bring its attendant circumstances to mind. And in their very allusiveness lies perhaps the strongest argument for their antiquity.

Are we, for example, wise to reject without any reservation the remarkable statement that king Ceolwulf, who reigned from 597 to 611, "continually fought with success against Angelcyn and Britons, Picts and Scots"? It implies that Ceolwulf had ships with which he could raid the coasts of Galloway and Ireland, and it is probably for this reason that it is usually rejected. And yet the capture of Gloucester and the adjacent territory in the previous generation had given access to Western seas to the West Saxons. To me, at least, it seems rash to assume that they had lost the habit of seafaring within a century of their migration to Britain. Above all, if there were no basis of truth behind the statement, its appearance in the Annals would be really inexplicable. It is hard to discover any adequate motive for the attribution of fictitious exploits to one of the obscurest of West Saxon kings. Ceolwulf's expeditions against Picts and Scots may, no doubt, be denied on the ground that the West Saxons of his time must have been preoccupied with the extension of their territory towards the south-west, with wars against the Britons of Dumnonia. But if so it should be remembered that the annal is rejected, not because it is intrinsically improbable but because it conflicts with a preconceived idea as to the course of West Saxon history.

But if these annals were really composed at or shortly after the middle of the seventh century, their evidence as to the course of the West Saxon conquest deserves to be taken seriously. An annalist writing at this date could have derived information from old men, still living, who in their youth had taken part in the wars of Ceawlin. If this annalist were himself an old man, bringing into chronological order the history which he had learned in youth, his account of the battle of Bedcanford in 571 may have been derived at first hand from a man who had taken part in it. It is easy to underestimate the length of time covered by two good memories. It would have been possible for an aged annalist writing at the middle of the seventh century to have set down, even at that late date, information received in youth from men who were living in the time of Cerdic himself. In view of this possibility it seems indiscreet for a modern student to dismiss king Cerdic as a fiction founded on place-names. And without assuming so remarkable a sequence of memories as this, it seems more than unsafe to assume, as much discussion of the Chronicle does assume, that the compiler of the Annals was utterly in error as to the whole course of the wars of the early West Saxon kings.

This does not mean that the story which he tells in disconnected annals is free from confusion or error. There was plenty of time for discrepant traditions to arise between the coming of the Saxons and the middle of the seventh century, and it is entirely to the credit of the seventh-century annalist that he should have refrained from smoothing away inconsistencies. The fact that two different traditions of the coming of the West Saxons seem to have been familiar to the annalist has long been observed. But modern scholars have given little attention to a much more remarkable entry which affects the whole character of the West Saxon invasion. According to the preface to the Parker MS. of the Chronicle, Cerdic and Cynric, about six years after their landing in 494, "conquered the whole of the kingdom of the West Saxons." This passage, to which

there is nothing equivalent in the extant text of the annals, conflicts abruptly with the tale which the annals record. The preface in which it occurs is generally, and no doubt rightly, considered to be a ninth-century work, and the statement that the whole West Saxon kingdom was conquered in 500 has therefore been allowed to pass with little commentary. That the passage deserves to be taken far more seriously follows from the fact that it appears under a date corresponding to the year 500 in the translation of the Chronicle written by or for Æthelweard, ealdorman of the south-western shires in the reign of Æthelred II. On quite independent grounds it is certain that the text of the annals followed by Æthelweard preserved many statements of fact which were not included in the text which was the architype of all extant texts of this work. It is no less clear that Æthelweard has not yet been proved guilty of inserting extraneous matter into his translation of the annals. It would therefore seem that the statement of a conquest of Wessex in 500 comes, not from the ninth-century writer of the Preface, but from the early West Saxon annalist whose work we are now considering. The extent to which it really conflicts with the other annals among which it is imbedded is a question which cannot properly be discussed here. Most probably it relates to a sudden and wide advance, repelled by the British reaction marked by the battle of Mons Badonicus. In any case, its preservation in the annals shows that their compiler incorporated the traditions with which he was familiar without shaping them into accordance with a preconceived story.

Now the appearance of this statement in Æthelweard's translation of the ancient West Saxon annals suggests a somewhat unwelcome conclusion. It is to the effect that we cannot feel certain as to the testimony originally given by even our oldest authorities so long as later writings relevant to their discussion remain accessible only in uncritical or imperfect texts. Æthelweard's Chronicle was first edited in 1596, and it has never been edited since, for

the notes appended to the reprint of the sixteenth-century text included by Petrie in the *Monumenta* amount to little more than grammatical corrections. Moreover, up to the present, no one has adequately discussed the relations of Æthelweard to the Chronicle. The result is that scholars who use the additional information which Æthelweard supplies inevitably feel that some reservations are necessary —that in quoting Æthelweard they may really be using as evidence for the ninth or some earlier century material which actually comes from the late tenth. That the authority of Æthelweard's work would be increased by its detailed examination is made probable by the result of the few cases in which his statements have already been tested. But for the present students can only follow Æthelweard as they used to follow Asser before the late Mr. W. H. Stevenson rehabilitated him.

Æthelweard's Chronicle is by no means the only source of high importance for Old English history which can at present be only used with reservations of this sort. Few works which are not professedly legal in character throw more light on Old English forms of legal procedure than the text known as the *Historia Eliensis*. After a preliminary book devoted to the life and miracles of St. Æthelthryth, it passes to a detailed account of the fortunes of the abbey and the fluctuations of its endowment after its re-establishment by St. Æthelwold in king Edgar's time. No serious attempt has yet been made to determine whether the mass of interesting detail which occurs at this point is really derived from tenth-century material preserved in the abbey or from the imagination of a twelfth-century chronicler following imperfectly remembered traditions. Nothing but a detailed analysis of the work can settle this question, and until it is settled, scholars are debarred from using with any confidence statements of fact which, if established, would materially affect our conception of tenth-century history. The *Liber*, for instance, records a suit heard immediately after 975 in which the pleading implies

that king Edward the Elder, after his conquest of the southern Danelaw, confiscated the lands of those Englishmen who had taken the Danish side in the recent war. It is easy to dismiss this statement as the invention of a twelfth-century writer, influenced by knowledge of what had happened after the Norman Conquest. But if, as I believe, the writer is following, or even translating, one of these narrative charters which are characteristic of the tenth century, he has incidentally preserved a fact which should govern all attempts to understand the significance of the reconquest of the Danelaw. But the belief of an individual reader is not evidence, and analysis of the whole work is the only thing which can prove its true character.

At present such an analysis is impossible. The first two books of the History were published in 1848 by the Anglia Christiana Society with an editorial preface of less than four pages and without any indication of the date of the several manuscripts employed in the edition. It is not remarkable that most of the questions of origin and authority which attend this work are still left open. The study of the book was carried much further by Miss Bateson in the life of Thomas of Ely which she wrote for the *Dictionary of National Biography*. But the problems which it presents will certainly remain unsolved until the whole work is open for discussion in a critical text. The later books of the History, edited by Henry Wharton in 1691, relate to a period with which this paper is not concerned. But the student of Anglo-Saxon institutions cannot afford to ignore Anglo-Norman practice. The great plea at Wendlebury in which bishop Nigel deraigned the ancient possessions of his church before nine Cambridgeshire hundreds[1] must have closely resembled the pleas before groups of hundreds which were characteristic of king Edgar's time. I would add that the definite statement that in 1133 Henry I as an act of grace allowed the monks of Ely to elect Nigel his treasurer as their bishop certainly deserves to be considered in any discussion

[1] *Anglia Sacra*, i, 619.

of the great office which bishop Nigel held. And if it is considered that the republication of long-printed texts is an unnecessary work I can at least appeal to the great scholar who demonstrated the dependence of Anglo-Norman upon Anglo-Saxon law. In 1913, Liebermann, inviting some more fortunate successor to supersede his *Einleitung in den Dialogus*, promised that he would gather a rich harvest from the Cotton MS. Titus Ai, the life of Nigel which Wharton printed.[1] That Liebermann directed his successor to the manuscript and not to Wharton's text is, I think, significant.

I would offer one other illustration of the way in which the study of Early English history is hampered by the absence of critical editions of important texts. Towards the end of his short life, William of Malmesbury, at the request of the monks of Worcester, wrote a long and elaborate biography of their famous bishop Wulfstan. This has long been considered an authority of the first importance for the time immediately preceding and following the Norman Conquest. But it has never yet been published at full length. Henry Wharton printed the greater part of it in *Anglia Sacra*, and the editors of the *Patrologia* reproduced Wharton's text. But I understand from my pupil, Mr. R. R. Darlington, who is studying the life in detail, that Wharton omitted more than two-fifths of William's work, often without any indication of omitted passages. It is true that most of the material omitted by Wharton relates to miracles performed by Wulfstan. But miracles were sometimes attended by interesting circumstances. One of Wulfstan's miracles gives a picture of the actual mobilisation of a feudal army under William I. Two other miracle narratives show thegns of English birth and name in possession of their estates many years after the fateful 1066. Another narrative shows Wulfstan, the last English bishop of Worcester, obtaining from Remigius, the first Norman bishop of Lincoln, permission to dedicate a church just founded by an English landowner in Remigius'

[1] *English Historical Review*, xxviii, 152.

diocese. There are still additions to be made to the substantive history of the Conqueror's reign.

The *Vita Wulfstani* is no less important for the study of historical writing in England. William states that he was following a life of the bishop written in English by his chaplain, Coleman. He therefore represents, if he is telling the truth, a contemporary authority for the generation which followed the Conquest. This at once raises the question of his relationship to the more famous Worcester historical work which passes under the name of Florence of Worcester. This is not the place in which to enter into the complicated and important problems of this relationship. All that need be said is that Coleman's life is certainly independent of Florence, and that where Florence and Coleman disagree the balance of probability lies with Coleman. But it will be evident that a complete and critical edition of the *Vita* is a necessary preliminary to any future edition of the greater work of Florence.

I do not suggest that the edition or re-edition of the texts which I have been discussing would lead to any great revision of opinion upon Early English history. With regard to its earliest phases I believe that this work would lead to increased respect for the received tradition. The later phases of this history present a different kind of difficulty. None of the narrative sources of Early English history have received more careful investigation than those which relate to the age of Edgar and Dunstan. But in dealing with tenth, and to an even greater extent in dealing with eleventh-century history, it is possible, and therefore necessary, to correct the impressions formed by the study of literary materials in the light of what may be described as record evidence. In particular, the analysis of the facts revealed by the private charters of the twelfth century is compelling us to realise that a fundamental social and racial distinction between the Danelaw and the rest of England underlay the superficial authority of the last Old English kings. In this field it seems to me that the more detailed

study of the personal nomenclature of the twelfth century would lead to interesting conclusions. It would certainly prove the long-continued survival of Scandinavian habits of name-formation in the Danelaw, and illustrate the intense conservatism of social custom which distinguished this region. It would do much to destroy the academic tradition that the Scandinavian settlers of Alfred's time rapidly became assimilated to the native population of England. And not until this tradition has ceased to rule us shall we be able justly to estimate the extent to which a united kingdom of England had come into being before the Norman Conquest.

I would ask in conclusion whether this Society might not on occasion turn its attention to the neglected materials for Early English history. It is casting no disparagement on the great names of Thomas Hearne and Henry Wharton to suggest that some of their work may need revision after the passage of two centuries. In any case, the rarity and costliness of seventeenth and eighteenth-century books is in itself a sound reason for republication. How many copies of *Anglia Sacra* or Hemming's Worcester Cartulary have been advertised for sale during the last year? A student's choice of a field for research is often determined by the accessibility of materials for study, and at the present time we can hardly expect a young scholar deliberately to devote himself to Early English or for that matter to Anglo-Norman history. The urgent need at present, as it seems to me, is not for the re-edition of the greater and more familiar works on which this history is founded. In any case, no society can of its own motion do much in this direction. The need is rather for the re-edition of texts of smaller compass, which do not lie beyond the grasp of the younger scholars among whom editors are most likely to be found. But we can hardly expect such a scholar to devote years of what may be scanty leisure to the preparation of texts without some reasonable likelihood of their publication. It is at this point that it seems to me our opportunity lies. The

Camden Society, which has done so much for the history of centuries later than the fourteenth, has only by the rarest of exceptions printed texts which relate to the period before 1200. In all its eighty-eight years of existence it has not yet devoted an entire volume to this period. By undertaking the occasional publication of texts relating to this dark period we should offer an opportunity to the student with a natural ability for the criticism of literary materials. We should also do something to prepare the way for that re-statement of the earliest English history which is to be desired even by those whose immediate concern is with the more abundant memorials of a later age.

THE EXCHEQUER YEAR

A Supplementary Note

By H. G. Richardson, M.A., B.Sc., F.R.Hist.S.

When discussing the Exchequer Year in the *Transactions* for 1925 (4th Ser., Vol. VIII) I should have noticed certain of the contemporary endorsements on the early feet of fines. The practice of depositing in the Treasury of the Receipt of the Exchequer the foot of each tripartite chirograph commenced on 16 July, 1195,[1] and some methodical arrangement had to be devised for preserving the feet of fines for convenient reference. The accumulation of each term and of each eyre was therefore filed separately ; [2] and the blank underside of the bottom document of each file was endorsed with an appropriate inscription, such as the following :—

Cyrographa recepta anno VII, a festo sancti Michaelis usque ad Pascham : [3]

Cirographa de itinere Willelmi de Glnauilla et Osberti filii Heruei et Symonis de Pateshull', recepta per manum predicti Willelmi Dominica in Sexagesima anno VIII : [4]

Haec sunt cyrographa de termino sancti Michaelis anni IX.[5]

[1] *Feet of Fines Hen. II and Ric. I* (Pipe Roll Soc.), p. 21 : Hoc est primum cyrographum quod factum fuit in curia domini Regis in forma trium cyrographorum . . . ad hoc ut per illam formam possit fieri recordum. Traditur Thesaurario ad ponendum in thesauro anno regni regis Ricardi VI° die Dominica proxima ante festum beate Margarete.

[2] Besides the endorsements quoted, see Palgrave, *Antient Kalendars and Inventories*, iii, 99 ff., *English Hist. Review*, XXXV, 408 *n.*, 412 f. The terminal files consisted of the receipts during the term and not necessarily of the fines levied in that term ; see notes below.

[3] *Feet of Fines Hen. II and Ric. I*, p. 26.

[4] *Ibid.*, p. 176. The fine bearing this endorsement was levied 19 July, 1196 : it was not deposited in the Treasury of the Receipt until 9 February following.

[5] *Feet of Fines 7 and 8 Ric. I*, p. 94. This fine was levied 23 April, 1197, " ad Scaccarium Pasche " : nevertheless, it was not deposited in the Treasury until after Michaelmas.

The inscription on one of the earliest of these files [1] invites explanation. It runs :—

Cirographa recepta anno VII regni regis Ricardi, *qui secundum nostram computacionem dicitur octavus* a Pascha usque ad festum sancti Michaelis.

What are we to make of the words I have italicised? *Nostra computacio* must mean the computation employed in the Receipt of the Exchequer, and it seems clear that there the period between Easter and Michaelmas was dated by the regnal year in which Michaelmas fell. The explanation is, I suggest, that already under Richard I the Easter term was dated in the lower chamber of the Exchequer by the "incipient" regnal year, just as we know the Michaelmas term to have been in the thirteenth and fourteenth centuries when it was punctuated by the accession day of the reigning sovereign.[2] Other endorsements suggest that this method of dating the Easter term was not invariable under Richard I,[3] and show that the Michaelmas term received the date of the current regnal year.[4] It follows that the computation of the Receipt of the Exchequer refers to the method of dating the terms and not of dating the years. We are not therefore to suppose that *nostra computatio* refers to an "Exchequer Year."

[1] *Feet of Fines Hen. II and Ric. I*, p. 79.

[2] *Trans., IV Series, Vol. VIII*, pp. 179 ff. But note that there is no trace of this method under Henry II, *ibid.*, p. 178.

[3] *Feet of Fines* 9 *Ric. I*, p. 106 : Cirographa recepta anno regni regis Ricardi IX° de termino Pasche—endorsement on a fine levied on Thursday after the Quinzaine of Easter 9 Ric. I (16 April, 1198). Here the dates of the term and of the regnal year agree.

[4] Besides the two examples given above, see *Feet of Fines* 10 *Ric. I*, p. 87.

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REPORT OF THE COUNCIL. SESSION 1924–1925.

The Council of the Royal Historical Society have the honour of presenting their Annual Report to the General Meeting of the Fellows, as follows :—

In accordance with custom the Council begin by announcing with great regret the deaths of Fellows, British and Foreign, the number of which is unhappily large.

The first, and the most famous, name of these is that of the Marquess Curzon of Kedleston, K.G., G.C.S.I., G.C.I.E., F.B.A., F.R.S., for many years an Honorary Vice-President of the Society. His place in the history of Great Britain and the Empire needs no further record than the mention of his name. His literary work would have secured him a high place in contemporary history apart from his distinguished public services.

Sir James Ramsay, Bt., M.A., F.S.A., was for many years a member of the Council, and afterwards an Hon. Vice-President. He was equally esteemed as a colleague and valued as an historian. It was only last year that the Council joined with other friends in presenting to him an address of congratulation upon the attainment of his ninety-first year.

Mr. W. J. Corbett, M.A., was for many years a member of Council, and afterwards Auditor for the Council. He contributed papers of great interest and importance to the *Transactions*, including his well-known study of the Tribal Hidage read in 1900.

Sir Francis T. Piggott, M.A., LL.M., was well known as a writer upon questions of International Law, especially in connexion with Naval Blockade and the Right of Search. He was the Editor, with Mr. G. W. T. Omond, of more than one scholarly series of official documents.

Dr. A. C. Benson, LL.D., C.V.O., the Master of Magdalene College, Cambridge, added distinction to a name honoured in literature and in the Church.

Dr. W. Blake Odgers, LL.D., K.C., was prominent in the organization of legal studies for the Law School of the Inns of Court.

Professor George Unwin, M.A., Professor of Economic History at Manchester, not only made his mark by his own work in several fields of Economic History, but also inspired students to emulate his enthusiasm and zeal for knowledge.

His Honour John Symonds Udal, F.S.A., was one of the oldest members of the Society and an antiquary of great competence.

Since the close of the Session, but before the presentation of this Report, we have sustained another heavy loss by the death of Sir Paul Vinogradoff, D.C.L., F.B.A., Corpus Professor of Jurisprudence in the University of Oxford, an Honorary Vice-President and contributor to our publications.

Among our Fellows in America we have lost the highly distinguished historian, Professor George Burton Adams of Yale University, who made some valuable contributions to English mediæval history and did much to encourage and organize its study. His visits to England and to the rooms of our Society were always welcome. He was intent on reforging ties of friendship with what he so truly reckoned his Mother Country.

Among Corresponding Fellows abroad we have lost Dr. Henrique da Gama Barros, a leading Portuguese historian; and Professor Dr. Felix Liebermann. Dr. Liebermann stood in a class by himself among the German investigators of the Antiquities of English Law and Constitutional History. His great edition of the Anglo-Saxon Laws is one of the most important contributions to knowledge of our generation. He illuminated every aspect of English mediæval civilization. So far back as 1893 he contributed to our *Transactions* an important article on the *Instituta Cnuti*.

A Conference was held on January 20, in connexion with the Library Association, to consider the question of the cost and distribution of Government publications to

Public Libraries. Mr. R. A. Roberts and the Hon. Secretary represented the Society. Useful results, it is hoped, may follow.

The rooms of the Society have been used for meetings of the following: the British Archæological Association, the Canterbury and York Society, the Huguenot Society, the Lingard Society, the Jersey Society of London, the Central London Branch of the Historical Association, the Royal Numismatic Society, the Psychical Research Society.

A dinner was held at the Holborn Restaurant on June 22, the President, Professor T. F. Tout, LL.D., Litt.D., F.B.A., in the chair. The Society entertained as their guests Mr. H. E. Malden, Honorary Secretary since 1903, and Dr. Hubert Hall, the Literary Director since 1891.

The Library has grown through generous gifts from Fellows, and from the *Quarterly Review*, and by the usual Exchanges. An exchange has been arranged with the *Societas Scientiarum* of Warsaw.

A subscription has been authorized to the Catholic Records Society. The volumes issued by this Society were formerly presented by Cardinal Gasquet, and it was thought advisable to complete the series by purchasing volumes issued since he ceased to present, and to continue a series very full of valuable historical matter.

A Library Catalogue, compiled by students of the Library Class of University College, is approaching completion.

Decorations and very necessary cleaning have been carried out in the meeting rooms and on the ground floor, and a new stove has been put into the kitchen.

At the Annual General Meeting in 1925 the Honourable J. W. Fortescue, LL.D., delivered his last Presidential Address, and retired at the expiration of his four years' term as President, becoming an Hon. Vice-President. The Council and the Society owe him a deep debt of gratitude for his able, courteous and enlivening tenure of the Presidential Chair.

Professor T. F. Tout, LL.D., Litt.D., F.B.A., was elected President in succession to the Honourable J. W. Fortescue, LL.D.

The Rt. Hon. Lord Ernle, M.A., M.V.O., was elected an Honorary Vice-President.

The nomination by the Council of Charles Johnson, M.A., F.S.A., as Treasurer, *vice* Mr. Tedder deceased, was confirmed by the meeting.

At the same meeting the following Vice-Presidents retired in rotation, under By-law XVII: J. E. Morris, Litt.D., and G. W. T. Omond, M.A. C. L. Kingsford, M.A., F.S.A., F.B.A., and R. L. Poole, LL.D., Litt.D., F.B.A., were elected to fill the vacancies.

The members of Council, retiring under the same By-law, were: The Rev. A. J. Carlyle, M.A., Miss Alice Gardner, M.A., F. A. Kirkpatrick, M.A., Professor C. A. J. Skeel, D.Lit., and Professor Stenton, M.A. In their places G. N. Clark, M.A., the Rev. Canon Foster, M.A., G. P. Gooch, Litt.D., and Professor Lilian Knowles, Litt.D., LL.M., were elected.

W. Page, F.S.A., and A. F. Sieveking, F.S.A., were re-elected Auditors for the Fellows, and J. F. Chance, M.A., for the Council.

The following Papers were read in the course of the Session 1924–1925:—

"William IV of Orange and his English Marriage." By Professor P. Geyl, Litt. D., F.R.Hist.S. (November 13, 1924.)

"Debates in the House of Lords." By Professor F. H. Relf, Ph.D., F.R.Hist.S. (Wells College, N.Y.) (December 11, 1924.)

"Financial Administration under Henry I." By Geoffrey H. White, F.R.Hist.S. (January 8, 1925.)

"Coal Mining in the Seventeenth Century." By Miss Asta Moller, M.A., B.Lit. (Oxon). (March 12, 1925.)

"The Beginning of the Dissolution: Christ Church, Aldgate," 1532. By Miss E. Jeffries Davis, M.A., F.R.Hist.S. (April 1, 1925.)

"Experiments in Exchequer Procedure (1200–1232)." By Miss Mabel H. Mills, M.A. (May 14, 1925.)

The President (the Hon. J. W. Fortescue, LL.D.) delivered an Address at the Annual Meeting on February 12, 1925.

The Alexander Medal was awarded to Miss F. A. Mace, M.A., for an Essay on " Devonshire Ports in the Fourteenth and Fifteenth Centuries."

A Communication was received from H. G. Richardson, M.A., B.Sc., F.R.Hist.S., on " The Exchequer Year."

The above Papers and Communication, with the President's Address and the Alexander Prize Essay, are printed in the *Transactions*, Fourth Series, Vol. VIII.

In addition to the current volume of *Transactions*, the following volumes of Publications have been issued: Camden Fourth Series, Vol. XXXV, British Diplomatic Instructions, Vol. II, part i, *France*, 1689–1720, edited by L. G. Wickham Legg, M.A.; Royal Historical Society's Publications: *List and Index* of the Transactions and Publications of the Royal Historical Society (1871–1924) and of the Publications of the Camden Society (1840–1897), edited by the Director.

Volume III of British Diplomatic Instructions, *Denmark*, 1689–1789, edited by J. F. Chance, M.A., and Volume IV of the same Series, *France*, part ii, 1721–1733, and Volume XIV of the *Camden Miscellany*, are in the press; and British Diplomatic Instructions, part II, *Sweden*, 1728–1789, edited by J. F. Chance, M.A., is in preparation.

The Council, on the recommendation of the Publication Committee, have revised and issued *Instructions to Editors and Authors*. The Council feel that these regulations and suggestions should be of considerable assistance to Editors and Authors, as well as to the Director, who is responsible for the proper form and reasonable cost of the Society's publications.

The Secretary reports that the total membership of the Society on October 31, 1925, was 793, including Ordinary, Life, Honorary and Corresponding Fellows. There were 233 subscribing Libraries. Of the Fellows, 9 were Honorary, 23 were Corresponding Members, and 100 were Life Fellows.

There are 62 Societies, British and Foreign, which exchange *Transactions* with the Royal Historical Society.

During the year 45 Fellows have been elected, and 1 reinstated. Seven Libraries have been admitted, and 5 have been reinstated. The Society has lost by death 16 Fellows, by resignation 20, and 1 Library, and the names of 3 Fellows have been removed from the Roll. The net gain is 7 Fellows and 11 Libraries.

The Treasurer reports that the Accounts show that the Society is in a flourishing condition and financially on a sound basis. The income of the year exceeded the expenditure by £110 10*s.* 6*d.*, including an allowance in the expenditure for the issue of the *List and Index* of Publications. The Council have spent a large sum this year on necessary repairs and painting, and this item also has been met out of current income.

The balance-sheet shows that after valuing the assets at the lowest possible figure, and taking all liabilities into account, there is a surplus standing to the credit of the Society of £2,655 17*s.* 7*d.* During the year the sum of £400 has been invested in National Savings Certificates, which, when they mature, will realize £500. The Russian 4 per cent. Bond, on which no dividend has been received since 1919, is considered by the Council to be of no value and will henceforward be omitted from the balance-sheet; the Alexander Trust Fund, which it represented, disappears with it. The Medal will continue to be given by the Society at its own expense as it has been since 1914. The valuation at which the Society's investments stand in the balance-sheet, at £1,942, has not been altered, although the current market value is £2,243.

ROYAL HISTORICAL SOCIETY.

I.—Income and Expenditure Account relating to the Year ending October 31, 1925.

Income.			£ s. d.
Subscriptions of 1923 : 1 at 42s.	£2 2 0		
,, 1924 : 1 at 30s.	1 10 0		
,, ,, : 21 at 42s.	44 2 0		
		£47 14 0	
Less amount estimated to be received in last year's accounts for subscriptions in arrear		30 0 0	
Subscriptions in arrear, received in excess of estimate			17 14 0
Subscriptions now in arrear estimated to be received			30 0 0
Subscriptions of 1925 : 8 at 20s.		8 0 0	
,, ,, 232 at 30s.		348 0 0	
,, ,, 9 at 21s.		9 9 0	
,, ,, 591 at 42s.		1241 2 0	
			1606 11 0
Life subscriptions : 4 at £21		84 0 0	
Less proportion required by By-law IX to be invested (see Balance-sheet)		56 0 0	
			28 0 0
Dividends on Investments			80 4 10
Interest on Deposit Account at Bank			25 19 7
Rentals received			248 17 0
			£2037 6 5

Expenditure.			£ s. d.
Publications : Printing and Distributing	£758 0 7		
Editing and Indexing	15 15 0		
	£773 15 7		
Less received from Sales	82 2 10		
			691 12 9
Salaries and Wages			574 17 9
Rent of Premises, 22 Russell Square			170 0 0
Coal			30 0 0
Electric Light, Gas, etc.			21 18 1
Rates (Parochial, etc.) and Taxes			105 8 3
General Printing and Stationery			55 1 1
Library : Books, Periodicals, and Binding			48 7 0
Postages, etc.			27 6 6
Premises, 22 Russell Square : including Telephone, new Bookcases, Blinds, Painting, Cleaning and Repairs			149 0 11
Insurance (Fire, National Health, etc.)			9 6 6
Monthly Meetings (cost of Refreshments)			15 0 2
Annual Dinner (net cost)			11 6 0
Alexander Medal			3 5 0
Sundries (Petty Cash payments)			24 5 11
Balance, being excess of Income over Expenditure for the year ending October 31, 1925, carried to Balance-sheet			100 10 6
			£2037 6 5

ROYAL HISTORICAL SOCIETY.

II.—Balance-sheet of Liabilities and Assets at October 31, 1925.

Liabilities.			£ s. d.
Life subscriptions required to be invested as Capital Account (By-law IX): amount brought forward from last Balance-sheet	£2004 0 0		
Proportion of Life subscriptions received in 1925 (see Income and Expenditure Account)	56 0 0		
		2060 0 0	
[Represented by Consols, India 3½% Stock, Canada 3½% Stock, War Stock 5%, War Bonds 4%, National Savings Certificates, and Cash on Deposit—see *contra*.]			
Subscriptions received in advance		22 19 0	
Amount due to Printers for Works Outstanding		600 0 0	
Balance, being surplus of Assets over Liabilities at date, viz., Amount brought forward from last year	£2555 7 1		
Add Excess of Income over Expenditure as shown by Income and Expenditure Account	100 10 6		
		2655 17 7	
		£5338 16 7	

Assets.			£ s. d.
Consols 2½%, £699 9s. 9d. valued at	£314 0 0		
India 3½% Stock, £900 valued at	500 0 0		
Canada 3½% Stock, £300 valued at	200 0 0		
500 National Savings Certificates, at cost	400 0 0		
War Stock 5%, £450 valued at	380 0 0		
War Bonds 4%, £150 valued at	148 0 0		
		1942 0 0	
[The current market value of the above investments is £2243.]			
Cash at Bank: Current Account	£144 15 8		
„ Deposit „	1221 13 2		
Petty Cash Balance in hand	0 7 9		
		1366 16 7	
Stock of Publications at Russell Square (value as insured)		100 0 0	
Stock of Publications with Printer (value as insured)		500 0 0	
Library (value as insured)		1000 0 0	
„ Manuscripts (value as insured)		100 0 0	
Furniture, etc. „ „		300 0 0	
Subscriptions in arrear estimated to be received (see Income and Expenditure Account)		30 0 0	
		£5338 16 7	

(*Signed*) Charles Johnson, *Hon. Treasurer.*

Auditors' Report.

The above Statement of Income and Expenditure and Balance-sheet have been prepared from the Books and Vouchers, and we hereby certify the same to be correct.

(*Signed*) J. Frederick Chance,
Wm. Page,
A. Forbes Sieveking,
} *Auditors.*

December 4, 1925.

ROYAL HISTORICAL SOCIETY.

(INCORPORATED BY ROYAL CHARTER.)

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Public Archives of Canada, Ottawa.
Toronto University.

CAPE OF GOOD HOPE.

South African Library, Cape Town.

CZECKO-SLOVAKIA.

Königl. böhmischen Gesellschaft der Wissenschaften, Alstadt, c. Nr. 562, Prague.

DENMARK.

Société Royale des Antiquaires du Nord, Copenhagen.

FRANCE.

Bibliothèque de l'Université de Toulouse, 2 Rue de l'Université, Toulouse, Haute-Garonne.
Revue des Études Napoléoniennes, 108 Boulevard St. Germain, Paris.
Société de l'Histoire de France, 60 Rue des Francs-Bourgeois, Paris.
Société de l'École Nationale des Chartes, 17 Rue de la Sorbonne, Paris.
Société des Antiquaires de l'Ouest, Rue des Grandes-Écoles, Poitiers.

GERMANY.

Notgemeinschaft der Deutschen Wissenschaft, 3 Schlosz Portal, Berlin.

HOLLAND.

Commissie van Advies voor Rijks Geschied-kundige Publicatien, The Hague.
Historisch Genootschap, Utrecht.

ITALY.

Reale Academia Lucchese di Scienze, Lettere ed Arti, Lucca.
Reale Academia dei Lincei, Rome.
R. Società Romana di Storia Patria, Rome.
Società di Storia Patria per la Sicilia Orientale, Catania, Sicily.

MEXICO.

Museo Nacional, D.F., Mexican Republic, Mexico.

NOVA SCOTIA.

The Nova Scotia Historical Society, Halifax, N.S.

POLAND.

L'Institut National Ossolinski Leopol (Lwow.).
Societas Scientiarum Varsaviensis, 8 Sniadeckich, Warsaw.

PORTUGAL.

Academia Real das Sciencias, Lisbon.
Revista de Historia, Av. do duque de Avila, Lisbon. 112.3°

ROUMANIA.

Academia Romana, Bucharest.

SOUTH AMERICA.

Academia Nacional de la Historia, Carácas, Venezuela.

SPAIN.

Real Academia de la Historia, Calle del Leon 21, Madrid.

SWEDEN.

K. Universitets Biblioteket, Lund.
Kongl. Vitterhets Historie Antiquitets Akademien, National Museum, Stockholm.
The Royal Society of Antiquaries of Sweden, Stockholm.
The University, Upsala.

SWITZERLAND.

Allgemeine Geschichtsforschende Gesellschaft der Schweiz. Stadt Bibliothek, Berne.
Historische und Antiquarische Gesellschaft, Basel, Sonnenweg, 15.

UNITED STATES.

American Antiquarian Society, Worcester, Mass.
American Jewish Historical Society, c/o A. M. Friedenberg, Esq., 38 Park Road, New York.
Connecticut Historical Society, Hertford, Conn.
Historical Society of Pennsylvania, 1300 Locust Street, Philadelphia, Pa.
Illinois Historical Society, Springfield, Illinois.
Library of Congress, Washington, D.C.
Maine Historical Society, Portland, Maine.
Maryland Historical Society, Baltimore, Md.
Massachusetts Historical Society, Boston, Mass.
Minnesota Historical Society, Saint Paul, Minn.
New England Historic-Genealogical Society, 9 Ashburton Place, Boston, Mass.
New Jersey Historical Society, 16, West Park Street, Newark, N.J.
New Hampshire State Library, Concord, N.H.
New York Historical Society, 77 Street and Central Park West, New York.
Rhode Island Historical Society, Providence, R.I.
South Carolina Historical Society, Charleston, S.C.
Texas State Historical Society, Austin, Texas.
Virginia Historical Society, 707 East Franklin Street, Richmond, Va.

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